TIGARD CITY COUNCIL MEETING

OCTOBER 11, 2005 6:30 p.m.
TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are <u>estimated</u>; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. <u>Business agenda items can be heard in any order after 7:30 p.m.</u>

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments;
 and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A TIGARD CITY COUNCIL MEETING OCTOBER 11, 2005

6:30 PM

- STUDY SESSION
 - > DISCUSSION OF GIS COORDINATOR POSITION
 - Administration Staff
 - > DISCUSSION OF PROPOSED TIGARD MUNICIPAL CODE AMENDMENTS RELATING TO THE BUILDING BOARD OF APPEALS
 - Community Development Staff
 - > DISCUSSION ON BUDGET AMENDMENTS FOR CITY OF TIGARD BRANDING/LOGO PROJECT AND URBAN RENEWAL PUBLIC OUTREACH PLAN
 - Administration Staff
- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to conduct labor negotiations and discuss real property transaction negotiations under ORS 192.660(2)(d) and (2)(e). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING
 - 1.1 Call to Order City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items

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- Mayor Dirksen
- 2.1 Proclaim October 22, 2005 as Make a Difference Day
- 2.2 Proclaim the week of October 10 to 17, 2005 as Start Making a Reader Today (SMART) Week
- 2.3 Proclaim the month of October, 2005 as Crime Prevention Month
- 3. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - Tigard High School Student Envoy Krista Foltz
 - Follow-up to Previous Citizen Communication
- 4. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 4.1 Approve Council Minutes for September 13, 2005
 - 4.2 Receive and File:
 - a. Council Calendar
 - b. Council Meeting Tentative Agenda
 - 4.3 Approve a Funding Request from St. Vincent de Paul from the City's Residential Services Agency Emergency Set-aside Resolution No. 05 _____
 - 4.4 Discontinue the Local Improvement District Formation Process for the Proposed 79th Avenue Local Improvement District Resolution No. 05 -
 - <u>Consent Agenda Items Removed for Separate Discussion:</u> Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.
- 5. CONSIDER ADOPTION OF THE HERITAGE TREE PROGRAM
 - a. Staff Report: Public Works Staff
 - b. Council Discussion
 - c. Council Consideration: Resolution No. 05 -

6. PUBLIC HEARING (QUASI-JUDICIAL) TO CONSIDER A BALLOT MEASURE 37 CLAIM RELATED TO THE CONSTRUCTION OF A BILLBOARD ON THE HI-HAT RESTAURANT PROPERTY

CLAIM:

The Claimant seeks a waiver of the sign standards which prohibit billboards on a .85 acre site. The amount claimed as compensation without such waiver is \$623,290.00.

AFFECTED REGULATION:

Sign code restrictions including: TDC 18.780.070.M, which prohibits billboards and 18.780.130.C, which provides further sign restrictions applicable to the C-G zone.

LOCATION:

11530 SW Pacific Highway; WCTM 1S136DA, Tax Lot 700. On the south side of SW Pacific Highway, between SW 69th and 71st Avenues.

ZONING DESIGNATION:

C-G: General Commercial District. The C-G zoning district is designed to accommodate a full range of retail, office and civic uses with a City-wide and even regional trade area. Except where non-conforming, residential uses are limited to single-family residences which are located on the same site as a permitted use. A wide range of uses, including but not limited to adult entertainment, automotive equipment repair and storage, mini-warehouses, utilities, heliports, medical centers, major event entertainment, and gasoline stations, are permitted conditionally.

APPLICABLE REVIEW CRITERIA:

Tigard Municipal Code Chapter 1.20.

- a. Open Public Hearing
- b. Rules of Procedure
- c. Declarations or Challenges
- d. Staff Report: Community Development Staff
- e. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal
- f. Staff Recommendation
- g. Council Discussion
- h. Close Public Hearing
- i. Council Consideration: Motion directing staff to prepare documents in order to: pay compensation, waive applicable regulations or deny the claim.

- 7. LOCAL CONTRACT REVIEW BOARD (LCRB) CONSIDER A CONTRACT FOR DESIGN AND IMPLEMENTATION SERVICES FOR THE WATER TELEMETRY UPGRADE
 - a. Staff Report: Public Works Staff
 - b. LCRB Discussion
 - c. LCRB Consideration: A motion to award a contract for design and implementation services for the water system telemetry upgrade to Portland Engineering, Inc.
- 8. COUNCIL LIAISON REPORTS
- NON AGENDA ITEMS
- 10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- 11. ADJOURNMENT

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A CITY CENTER DEVELOPMENT AGENCY - AN URBAN RENEWAL AGENCY – MEETING WILL FOLLOW THE CITY COUNCIL MEETING

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Agenda Item No.: _

Study Session

Meeting of:

October 11, 2005

Packet materials for the

DISCUSSION OF GIS COORDINATOR POSITION

will be forwarded to Council in their Friday mail packet and will be available in hard copy on Friday, October 7, 2005.

For more information, contact the City Recorder's Office at 503-639-4171.

For Council Meeting of Oct.

MEMORANDUM

TO:

City Council

FROM:

Gary Lampella Al Longary

RE:

Term Expiration Dates for the Board of Appeals

DATE:

September 29, 2005

The Building Appeals Board hears and decides appeals of orders and decisions made by the Building Official. The Board consists of seven members who serve 4 year terms. When the Board was originally established, an oversight was made with regard to the term expiration dates. All Board members currently have terms that end on the same date – April 1, 2006.

I am recommending a staggered term schedule so that two members will initially have terms that will expire on 4/1/08; two members will have terms that will expire 4/1/09; and three members will have terms that will expire 4/1/10. At the end of the respective terms, new members will be appointed to a new 4 year term. Following such a staggered schedule will ensure that Board members will not have terms that expire on the same date.

Attached is a matrix to illustrate the staggered timeline for terms.



-		3-yea 2-yea	<u> </u>							
Terms expire 4/01/06	4/01/06	4/01/07	4/01/08	4/01/09	4/01/10	4/01/10	4/01/12	4/01/13	4/01/14	4/01/15
Member 1			X				X	<u> </u>		
Member 2			Х			-	Х			-
Member 3				Х				Х		
Member 4				Х				X	<u></u>	·
Member 5					Х				X	- '
Member 6					X			_	X	-
Member 7		-	-		X				X	
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			4-year	terms			·			

Since all the members of the Board of Appeals have term that expire on the same date, April 1, 2006, a new staggered term matrix will be necessary to transition into regular 4-year terms. The following explains how the terms will be implemented:

- Members 1&2 are initially appointed for a 2-year term until 4/01/08, and then new members start 4-year terms
- Members 3&4 are initially appointed for a 3-year term until 4/01/09, and then new members start 4-year terms
- Members 5,6,&7 follow a regular 4-year term appointment

Agenda Item No.: Study Session

Meeting of: October 11, 2005

Packet materials for the

DISCUSSION ON BUDGET AMENDMENTS FOR CITY OF TIGARD BRANDING/LOGO PROJECT AND URBAN RENEWAL PUBLIC OUTREACH **PLAN**

will be forwarded to Council in their Friday mail packet and will be available in hard copy on Friday, October 7, 2005.

For more information, contact the City Recorder's Office at 503-639-4171.

Item	No.	2.1

For Council Meeting of Oct. 11, 2005

PROCLAMATION

Make A Difference Day

WHEREAS, serious social problems concern our nation and threaten its future; and

WHEREAS, connecting with others and working together through volunteer service can bridge the differences that separate people and help solve serious social problems; and

WHEREAS, we, the American people, have a tradition of philanthropy and volunteerism; and

WHEREAS, millions of self-sacrificing individuals touch and enhanc the lives of millions on the annual day of doing good by giving where there was a need, rebuilding what had been torn down, teaching where there was a desire to learn and inspiring those who had lost hope; and

WHEREAS, USA WEEKEND Magazine and its affiliate newspaper and The Points of Light Foundation and its affiliate volunteer centers have joined to promote the fourteenth annual national day of doing good that celebrates and strengthens the spirit of volunteer service; and

WHEREAS, volunteer service is an investment in the future we all must share;

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of Tigard, on behalf of the entire City Council, do hereby proclaim:

October 22, 2005 as

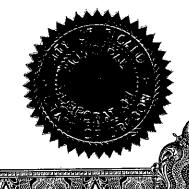
Make A Difference Day

in Tigard, Oregon, and urge my fellow citizens to observe this day by connecting with friends,
fellow employees and relatives and with religious, school and civic groups to engage in projects
benefiting their community.

Dated this	day of	2005.	
IN WITNESS WHE to be affixed.	REOF, I have hereunto	set my hand and caused the Seal of the City of T	igaro
		Craig Dirksen, Mayor City of Tigard	-

Attest:

City Recorder



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Item	No.	2.2

For Council Meeting of Oct. 11, 2005

PROCLAMATION

SMART (Start Making a Reader Today) Week

WHEREAS, Oregon has long recognized the importance of programs that prevent serious future problems, reduce public cost and allow children to grow into healthy, productive adults; and

WHEREAS, Oregon communities recognize the need for each generation to take care of the next and that all children, whether our own, our neighbors, or children we don't know, are our collective responsibility; and

WHEREAS, The SMART (Start Making a Reader Today) book and reading program is Oregon's leading community-based volunteer program dedicated to increasing literacy among elementary school students; and

WHEREAS, The SMART program served more than 11,000 children throughout Oregon during the 2003-04 school year and served more than 77,000 children since the program started 12 years ago; and

WHEREAS, It is important to the future of Oregon to:

- develop confident and enthusiastic readers who can read at grade level by the time they leave elementary school,
- Increase the number of students graduating from Oregon high schools,
- provide a more productive and literate workforce,
- provide an opportunity for adult volunteers to transform young live, and
- strengthen the connection between children and their communities.

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of Tigard, on behalf of the entire City Council, do hereby proclaim:

the week of October 10 - 17, 2005 as

SMART Week

and encourage all	Figard citizens and busine	esses to Join in this observance.
Dated this	day of	2005.
IN WITNESS WHI to be affixed.	EREOF, I have hereunto	set my hand and caused the Seal of the City of Tigard
		Craig Dirksen, Mayor City of Tigard
Attest:		Stole Stole

City Recorder



For Council Meeting of Oct. 11, 2005

PROCLAMATION

Crime Prevention Month

WHEREAS, the vitality of our State depends on how safe we keep our homes, neighborhoods, schools, workplaces and communities; and

WHEREAS, crime and fear of crime destroy our trust in others and in civic institutions, threatening the community's health, prosperity, and quality of life; and

WHEREAS, people of all ages must be made aware of what they can do to prevent themselves and their families, neighbors, and co-workers form being harmed by crime; and

WHEREAS, the personal injury, financial loss, and community deterioration resulting from crime are intolerable and require investments from the whole community; and

WHEREAS, crime prevention initiatives must include self-protection and security, but they must go beyond these to promote collaborative efforts to make neighborhoods safer for all ages and to develop positive opportunities for young people; and

WHEREAS, adults must invest time, resources, and policy support in effective prevention and intervention strategies for youth, and teems must be engaged in driving crime from their communities;

WHEREAS, effective crime prevention programs excel because of partnerships among law enforcement, other government agencies, civic groups, schools, faith communities, businesses, and individuals as they help to nurture communal responsibility and instill pride;

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of Tigard, on behalf of the entire City Council, do hereby proclaim:

October 2005 as

Crime Prevention Month

In Tigard and urge all citizens, government agencies, public and private institutions, and businesses to invest in the power of prevention and work together to make Oregon a safer, stronger, and a more caring community.

	•			
IN WITNESS WHEREOF,	I have hereunto set n	ny hand and caused	the Seal of the	City of Tigard
to be affixed.				

Craig Dirksen, Mayor City of Tigard Attest:

day of

Dated this

City Recorder

Agenda Item N	o	4.1
For Agenda of	Oct.	11.2005

COUNCIL MINUTES TIGARD CITY COUNCIL MEETING SEPTEMBER 13, 2005

Mayor Dirksen called the meeting to order at 6:31 p.m.

Council Present: Mayor Dirksen; Councilors Sherwood, Wilson, and Woodruff.

STUDY SESSION

> BRIEFING ON MANAGEMENT GROUP COST OF LIVING (COLA)
AND COMPENSATION

Human Resources Director Zodrow and Legal Counsel Bemis reviewed with the City Council how compensation is set for City of Tigard employees. Council and staff also discussed a cost of living adjustment for management/professional employees. Human Resources Director Zodrow reviewed COLAs granted in other Oregon cities. Mayor Dirksen noted that City Manager Prosser's contract is on the business meeting agenda for consideration. If the contract is approved and a COLA is awarded to the Management/Professional group, then the City Manager will also receive the COLA.

After discussion and questions to staff, the Council consensus was for staff to present a request for a 2.3% adjustment on the September 27, 2005, City Council consent agenda.

> DISCUSSION OF COUNCIL RETREAT

The retreat has been replaced by a training session, which will be held September 30, 2005.

> ADMINISTRATIVE ITEMS

- ☑ Receive and File Fifth Tuesday Meeting Notes August 30, 2005
- City Attorney submittal of revised findings (distributed) Agenda Item No. 6. Changes were noted for Item Nos. 6 and 16. City Attorney Ramis told the City Council that late today the staff had advised the City Attorneys the status of one of the subdivisions is different from the others so an adjustment was made to the findings. Mr. Ramis advised the revision is not central to the basis of Council's decision. Councilor Woodruff asked if it would be grounds for another delay. Mr. Ramis said, "No," but if the staff were to put new evidence into the record and respond to it, "yes." Mr. Ramis said the better way to deal with it is to

recognize that it is not central to the decision, so he recommended taking out references to it to make it correct. Mr. Ramis said that the record does not need to be changed to amend the findings. In response to a question from Mayor Dirksen, City Attorney Ramis advised that this does not have anything to do with the consent to annex or the annexation because testimony was given by the applicant that he voluntarily is seeking annexation, which trumps any of those issues.

- Written Testimony for Agenda Item No. 7 Measure 37 Waiver Hearing September 7, 2005, letter from Charles T. Wilson distributed to the City Council.
- Rules of procedure for the Measure 37 claim hearing was distributed to the City Council. The City Attorney reviewed these rules during the hearing (Agenda Item No. 7).
- Date for the Joint Tigard-Tualatin School District and City of Tualatin Meeting was set for October 7. City of Tualatin will host. City Council members were asked to submit agenda item ideas.
- Reminded City Council of the League of Oregon Cities Conference, November 10-12 Hilton Eugene & Conference Center. The theme this year is: "Cities: Leaders Live Here." Mayor Dirksen and Councilors Sherwood and Woodruff will attend.
- ☑ Jillian Walker will give the Tigard Student High School Student Envoy Report (Krista Foltz is unable to attend) See Agenda Item 3.
- □ Council received information on the shooting simulation machine.
- Reminded City Council of dinner with the Indonesian Delegation, September 26, 2005, 6:30 p.m., Hunan Pearl Restaurant
- ☑ This is Rob Williams last meeting as the Tigard Youth Advisory Council President. See Agenda Item 1.4 presentation by the Mayor to President Williams.
- ☑ City Manager Prosser noted there are problems with issuance of visas for some members of the Indonesian delegation; several individuals will not be able to make the trip to Tigard as planned.

Council Calendar:

September

11-18	Sun-Sun	Family Week Celebration
13	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
20	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
22	Thursday	Citizen Leadership Series – 9 Sessions, Thursday evenings
26	Monday	Indonesian Delegation Dinner – 6:30 p.m., Hunan earl
27	Tuesday	Indonesian Delegation Reception – 5:30 p.m. – Library Community Room
27	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
30	Friday	Council Training Session – Noon, 10305 SW 87 th Avenue, Tigard, Oregon

• EXECUTIVE SESSION: The Tigard City Council went go into Executive Session at 7:06 p.m. to consult with counsel about current or potential litigation under ORS 192.660(2) (h).

Executive Session concluded: 7:23 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the City Council & Local Contract Review Board meeting to order at 7:30 p.m.
- 1.2 Council Present: Mayor Dirksen; Councilors Sherwood, Wilson, and Woodruff.
- 1.3 Pledge of Allegiance
- 1,4 Council Communications & Liaison Reports
 - Mayor Dirksen presented a gift and certificate of appreciation to Tigard Youth Advisory Council President Rob Williams. President Williams's term of office is ending and his successor will be appointed soon.
- 1.5 Call to Council and Staff for Non-Agenda Items: None

PROCLAMATIONS

- Mayor Dirksen issued the following proclamation:
- 2.1 Proclaim September 17 to 23, 2005 as Constitution Week

3. CITIZEN COMMUNICATION

- Tigard High School Student Envoy Representative Jillian Walker gave an update on Tigard High School activities.
- Mark Padgett recommended City Council consider changing the membership for Planning Commission. He recommended membership be limited to Tigard residents or property owners citing the recent information that Washington County was changing its policy for planning in areas of interest. Currently the rules allow for two non residents to serve on the Planning Commission. He further recommended that the current Planning Commissioner residing outside of the City limits be "grandfathered" to serve until the end of the term.

Councilor Wilson and Councilor Woodruff noted they would expect further information on the County's position regarding planning in the area of interest.

There was discussion on Mr. Padgett's proposal about changing the membership rules for the Planning Commission. In response to a question from Councilor Sherwood, Mr. Padgett said the City Council might want to consider limiting membership to all Boards and Committees to Tigard residents. There was discussion on a CPO4B subcommittee formed to review governance options for the Bull Mountain area. City Manager Prosser clarified that CPO4B includes a large

portion of incorporated City of Tigard. Mayor Dirksen also said he agreed with Councilor Woodruff and Councilor Wilson in that he hoped discussions would still be ongoing with the County about planning responsibility for some of the unincorporated areas near Tigard.

- Gretchen Buehner noted her concern that the joint meeting with the Tualatin Council and the Tigard-Tualatin School District was scheduled once again on a Planning Commission meeting night. Mayor Dirksen said that when Tigard is hosting the meeting, City Council will avoid scheduling on the same night as Planning Commission. Tualatin is hosting the next meeting and they have scheduled the meeting for one of their regular meeting times. Ms. Buehner also requested that a sign be posted in Town Hall requesting that cell phones be turned off. Mayor Dirksen indicated he thought this was a good idea. Ms. Buehner referred to Mr. Padgett's suggestion about Planning Commission membership. She recalled that originally non residents were allowed to serve on the Planning Commission if they were business owners in Tigard.
- Cynthia Osborne, Rich Carlson, Margaret Ellenson, and Diane Wiering noted the skate boarding event last Saturday and the supporters who turned out. They urged that Tigard move forward with the skate park.
- Alice Ellis Gaut requested Item 4.6 be removed from the Consent Agenda for separate discussion. She also read information from John Frewing about "Fanno Creek Buffer Violation," which related to Consent Agenda Item No. 6. (A copy of Mr. Frewing's statement is on file in the City Recorder's office.)
- Follow-up on Previous Citizen Communication City Manager Prosser:
 - Several citizens requested protection and retention of the Gage property for greenspace in the Bond Park neighborhood. The property owners have indicated they are not interested in selling the property to the City.
 - Ron Ellis Gaut spoke of his issues regarding the City's pursuit of a railroad crossing. He received a response at the meeting.
 - George and Betty Burke presented City Council with information about a code compliance issue with their property. City Manager Prosser noted progress is being made.
 - Connie Raemakers and Elizabeth Peloquin appealed to the City Council and community for support for the Skate Park.
- Follow-up on Fifth Tuesday Meeting
 - Sewer extensions were a discussion topic. City Manager Prosser noted staff has contacted these citizens.
 - o Zoning issues were noted; no follow up.
 - o Skate park support requested.
 - Verizon construction activity concerns noted. City Council will be receiving follow up information on Friday.
 - o Play structure at library requested; no follow up.

Tigard Youth Advisory Council President Rob Williams reviewed the Consent Agenda as noted below. Item 4.6 was removed for separate consideration.

4. CONSENT AGENDA:

- 4.1 Approve Council Minutes for August 9 and 16, 2005
- 4.2 Receive and File:
 - Council Calendar
 - Council Meeting Tentative Agenda
- 4.3 Approve Budget Amendment #1 to the FY 2005-06 Budget to Increase Appropriations in the Water, Water CIP, and Water SDC Funds for Funding of Certain Capital Water Projects Resolution No. 05 55

RESOLUTION 05- 55 – A RESOLUTION TO APPROVE BUDGET AMENDMENT #1 TO THE FY 2005-06 BUDGET TO INCREASE APPROPRIATIONS IN THE WATER, WATER CIP, AND WATER SDC FUNDS FOR FUNDING OF CERTAIN CAPITAL WATER PROJECTS

4.4 Approve Budget Amendment #2 to the FY 2005-06 Budget to Carry Over Funds in the Public Works Program for Replacement of Vehicles – Resolution No. 05 – 56

RESOLUTION 05-56 – A RESOLUTION APPROVING BUDGET AMENDMENT #2 TO THE FY 2005-06 BUDGET TO CARRY OVER FUNDS IN THE PUBLIC WORKS PROGRAM FOR REPLACEMENT VEHICLES

4.5 Approve Budget Amendment #3 to the FY 2005-06 Budget to Increase Appropriations in the Street Maintenance Division Budget for Purchase of a Sign Plotter and Computer – Resolution No. 05 – 57

RESOLUTION NO. 05-57 – A RESOLUTION TO APPROVE BUDGET AMENDMENT #3 TO THE FY 2005-06 BUDGET TO INCREASE APPROPRIATIONS IN THE STREET MAINTENANCE DIVISION BUDGET FOR PURCHASE OF A SIGN PLOTTER AND COMPUTER

- 4.6 (See discussion and separate consideration below.)
- 4.7 Authorize the City Manager to Relinquish Temporary Emergency Turnaround Easements at Arbor Pointe Subdivision
- 4.8 Approve the Submission of an Application for a Washington Square Mall Buffer Zone Protection Plan Grant

4.9 Adopt the National Incident Management System as the Foundation for Incident Command, Coordination, and Support Activities and Establishing Policy that Will Provide Training for Responsible City Personnel – Resolution No. 05 – 58

RESOLUTION NO 05-58 – A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AS THE FOUNDATION FOR INCIDENT COMMAND, COORDINATION, AND SUPPORT ACTIVITIES AND ESTABLISHING POLICY THAT THE CITY OF TIGARD WILL PROVIDE APPROPRIATE NIMS TRAINING FOR RESPONSIBLE CITY PERSONNEL

- 4.10 Local Contract Review Board:
 - Award a Contract for the Construction of the SW Ash Avenue Sanitary Sewer (Sewer Reimbursement District No. 35) to NW Kodiak Construction, LLC

Motion by Councilor Wilson, seconded by Councilor Sherwood, to approve the Consent Agenda, except for Item 4.6, which was removed for separate consideration.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen: Councilor Sherwood: Yes Yes

Councilor Sherwoo Councilor Wilson:

Yes

Councilor Woodruff

Yes

Council discussed Consent Agenda Item 4.6:

4.6 Amend the November 14, 2002 License Agreement for Maintenance of the Fields Property East of the Library Site

It was noted that the access issue on the Fields' property has a long history. The granting of access is part of a commitment by the City to Mr. Fields in an agreement entered into between these two parties at the time Mr. Fields sold property to the City for the library. In the agreement, this access is restricted to certain time periods and is provided so Mr. Fields can perform maintenance on his property, i.e., mowing equipment for fire hazard prevention. City Engineer Duenas, in response to a question from Councilor Wilson regarding the term of the agreement, advised that staff is recommending that the agreement be extended until such time as Mr. Field acquires access through Metro-owned property or until a road is built, which provides access to his property.

Motion by Councilor Wilson, seconded by Councilor Sherwood, to approve Consent Agenda Item No. 4.6.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:

Yes

Councilor Sherwood:

Yes

Councilor Wilson:

Yes

Councilor Woodruff

Yes

5. INDONESIAN RESOURCE CITIES EXCHANGE REPORT

Library Director Barnes, Durham Elementary School Teacher Davies, Clean Water Services Water Resources Manager Vanderplatt reviewed their recent trip to Indonesia. The cities of Samarinda and Balikpapan have made substantial progress on their pilot water audit program. In addition, lesson plans and curriculum were presented to teachers, which related to the conservation of water and protection of the environment. City Manager Prosser noted that travel costs are funded by USAid. A delegation of the two cities is scheduled to come to Tigard September 24-30, 2005, which will be the last delegation to visit as a part of this program. To wrap up the program, A Best Practices Conference will be held in Indonesia in December.

6. Continued from the August 23, 2005, City Council meeting –
CONSIDERATION OF THE FINAL ORDERS REGARDING THE
ANNEXATION OF THE FOLLOWING FOUR PROPERTIES:

FILE NO.: FILE TITLE:	ZONE CHANGE ANNEXATION (ZCA) 2004-00004 MOUNTAIN VIEW ESTATES SUBDIVISION ANNEXATION
REQUEST:	The applicant is requesting to annex two (2) parcels of land containing 6.94 acres into the City of Tigard.
LOCATION:	12415 SW Beef Bend Road, WCTM 2S110CB, Tax Lot 500; and (No site address), WCTM 2S110CB, Tax Lot 100.
FILE NO.: FILE TITLE:	ZONE CHANGE ANNEXATION (ZCA) 2005-00001 ARLINGTON HEIGHTS 3 SUBDIVISION ANNEXATION
REQUEST:	A request to annex three (3) parcels of land containing 16.97 acres into the City of Tigard.
LOCATION:	On the north side of SW Beef Bend Road and the southern terminus of SW Summerview Drive. WCTM 2S109DA, Tax Lot 2100; and 2S110CB, Tax Lots 600 and 700.
FILE NO.: FILE TITLE:	ZONE CHANGE ANNEXATION (ZCA) 2005-00002 WILSON RIDGE SUBDIVISION ANNEXATION

REQUEST:

A request to annex two (2) parcels of land containing 2.68

acres into the City of Tigard.

LOCATION:

13350 and 13400 SW Bull Mountain Road; WCTM

2S109AC, Tax Lots 100 and 200.

FILE NO.:

ZONE CHANGE ANNEXATION (ZCA) 2005-00003

FILE TITLE:

ALBERTA RIDER SCHOOL/SUMMIT RIDGE SUBDIVISION

ANNEXATION

REQUEST:

Annexation of 56 parcels containing approximately 20.75

acres into the City of Tigard.

LOCATION:

Alberta Rider School: WCTM 2S109AC, Tax Lot 2100 and 2S109AD, Tax Lot 1300; and Remaining Portions of Summit Ridge Subdivision: WCTM 2S109DA, Tax Lots 8500, 8600, 8700, 8800, 9400, 9500, 9600, 9700, 9800, 9900, 10000, 10100, 10200, 10300, 11500, 11600, 11700, 11800, 11900, 12000, 12100, 12200, 12300, 12400, 12500, 12600, 12700, 12800, 12900, 13000, 13400 and 13500, and WCTM 2S109DB, Tax Lots 1000, 1900, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600, 3700, 3800, 3900 and 4000.

ZONING OF ALL PARCELS: R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

APPLICABLE REVIEW CRITERIA: The approval standards for annexations are set out in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

Mayor Dirksen announced this agenda item.

City Attorney Ramis advised that the City Council had before it a draft final decision. He advised that the Council received a substituted version of the final decision with some slight changes in language. He advised the Council will need to make separate motions on each of the proposed annexations. The supporting findings are the same for each annexation as the City held a combined hearing.

Mayor Dirksen reminded those present that the public hearing is closed. Opportunities were given for oral testimony and written comments for which the time period had been extended and is now passed. All City Council members present indicated they reviewed the information presented to them and were ready to discuss and consider these annexations.

Councilor Wilson suggested that all the annexations be discussed together. City Attorney Ramis confirmed it would be appropriate to discuss the annexations together, but the motions on each should be considered separately.

Council discussion followed.

Councilor Woodruff said this has been controversial since before the vote on Bull Mountain. He acknowledged that some people feel very passionate about the annexations and he respects their ability to make their view known. He noted this is a public process. Councilor Woodruff said he has read all the testimony and staff and attorney responses. He said that decisions need to meet certain criteria and those are:

- Is it legal; does it meet Oregon statutes and Tigard ordinances?
- Does it make sense?
- Is it consistent with Tigard and other jurisdictions?
- Is it in the best interest of the residents of Tigard?

Councilor Woodruff advised that the annexations before the City Council tonight meet all of those criteria. He said that this is not anything new as the City has done business this way as do most of the jurisdictions throughout the state: When parcels become available adjacent to a City boundary, those parcels are annexed and become a part of the City. He acknowledged testimony of some people who thought there was some conspiracy going on and the City had some kind of plans that "We were going to do something scurrilous that was going to result in us annexing all of Bull Mountain against everyone's will. And, I can assure you that there is no conspiracy process underway here. This is nothing new...we would be doing the same process we're doing here if this was a parcel on the other side of Tigard." He noted the time and energy devoted by everyone and said he was ready to move ahead.

Councilor Sherwood said she concurred with Councilor Woodruff's comments. She said that the City was not doing anything different than what it had been doing for years. She said that she read through all the information presented and she agreed that there is no reason for not annexing in that the City would not be making islands, would not be annexing Beef Bend Road, and would not be annexing Bull Mountain

Road. Owners of these properties have asked to be annexed. She said she saw no reason not to proceed with the annexations.

Councilor Wilson said that over the course of the hearings a lot of testimony was heard by the City Council. He said it was similar to the testimony heard in opposition to the Annexation Plan, which was considered last November. These properties are being proposed to be annexed under ORS 222, which is not the same as the Annexation Plan, which was under ORS 195. The criteria for ORS 222 are simple in that you have to have consent of all of the property owners and 50 percent of the electors who live in the district. In these cases, consent has been given by every one of the owners and also every one of the electors. The criteria, clearly, has been met. The City has the authority to annex the territories. However, this does not necessarily mean the City should annex. He said that it was important at this juncture to articulate a clear policy as to why it is in the interest of the citizens of Tigard to annex them. Councilor Wilson said that, for him, it has always been fundamentally not about acquiring new territory or for control, but it has always been about provision of urban services and how those services get paid for. He said, "In short, it's about money." He advised that he often likens the City to a large homeowners association where we elect to provide services for ourselves and each of us pays our dues. We have a neighboring association that uses our facilities and does not pay for them. He said that he has always felt that that inequity needs to be corrected. As long as there are territories that are urban next to cities, it will be a problem. He said that if you look at the City of Tigard's Budget, the City collects about \$10 million in property taxes each year. Of the property taxes collected, \$9 million is used to fund the Police Department. The City also spends General Fund money maintaining parks. The third General Fund item is the Library, which is about \$2.5 million. One-half of the Library operation is funded through the County and the other half is funded through property taxes. Councilor Wilson said that with regard to police, which is the big ticket item, he said that every citizen in cities pays the County for Sheriff Patrol, but the Sheriff Patrol does not patrol the cities. In essence, the cities are subsidizing police services in the unincorporated portions of the County. If the County was to fund the one-half officer per thousand residents in the City that it funds in the County, then the City of Tigard could cut its property taxes by one-third. Councilor Wilson said that as long as this inequity exists, then he supports annexation and he supports the proposed annexations also.

Mayor Dirksen said that he heartily agreed with the preceding remarks made by the Council members and said he had nothing to add.

City Attorney Ramis confirmed that the ordinance titles should be read upon City Council consideration.

Council consideration:

Ordinance No. 05 - 09 (Mountain Estates Subdivision Annexation)

Councilor Sherwood moved for adoption of Ordinance No. 05-09. Councilor Woodruff seconded the motion.

City Recorder Wheatley read the following:

Ordinance No. 05-09 -- An Ordinance Annexing 6.94 acres, approving Mountain View Estates Annexation (ZCA 2004-00004), and withdrawing property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District

The motion was approved by a unanimous roll call vote of Council present:

Mayor Dirksen:

Yes

Councilor Sherwood:

Yes

Councilor Wilson:

Yes

Councilor Woodruff

Yes

Ordinance No. 05-10 (Arlington Heights 3 Subdivision Annexation)

Councilor Woodruff moved for adoption of Ordinance No. 05-10, Arlington Heights 3 Subdivision. Councilor Sherwood seconded the motion.

City Recorder Wheatley read the following:

Ordinance No. 05-10 — An Ordinance Annexing 16.97 acres, approving Arlington Heights 3 Annexation (ZCA 2005-00001), and withdrawing property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District

The motion was approved by a unanimous roll call vote of Council present:

Mayor Dirksen:

Yes

Councilor Sherwood: Yes
Councilor Wilson: Yes
Councilor Woodruff Yes

Ordinance No. 05-11 (Wilson Ridge Subdivision Annexation)

Motion by Councilor Wilson to adopt Ordinance No. 05-11. Councilor Sherwood seconded the motion.

City Recorder Wheatley read the following:

Ordinance No. 05-11 — An Ordinance Annexing 2.68 acres, approving Wilson Ridge Annexation (ZCA 2005-00002), and withdrawing property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District

The motion was approved by a unanimous roll call vote of Council present:

Mayor Dirksen: Yes
Councilor Sherwood: Yes
Councilor Wilson: Yes
Councilor Woodruff Yes

Ordinance No. 05-12 (Alberta Rider School/Summit Ridge Annexation)

Motion by Councilor Sherwood to adopt Ordinance 05-12. Councilor Wilson seconded the motion.

City Recorder Wheatley read the following:

Ordinance No. 05-12 -- An Ordinance Annexing 20.75 acres, approving Alberta Rider Elementary School/Summit Ridge Annexation (ZCA 2005-00003), and withdrawing property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District

The motion was approved by a unanimous roll call vote of Council present:

Mayor Dirksen:

Yes

Councilor Sherwood:

Yes

Councilor Wilson:

Yes

Councilor Woodruff

Yes

PUBLIC HEARING (QUASI-JUDICIAL) TO CONSIDER AN ORDINANCE 7. ADOPTING FINDINGS TO GRANT A BALLOT MEASURE 37 WAIVER OF THE R-25 ZONING RESTRICTIONS FOR A PROPERTY AT THE INTERSECTION OF SW SCHOLLS FERRY ROAD. AND 135TH AVENUE

CLAIM:

The Claimant seeks a waiver and/or change in the underlying zoning and comprehensive plan designation on a 10.45 acre site from the present highdensity R-25 residential zoning to C-C or C-G commercial zoning to allow a commercial shopping center, various tenants/uses, as well as retail sales. vehicle fuel sales and signage of the C-C or C-G commercial zone. The amount claimed as compensation without such waiver or change is \$4,562,360.00.

AFFECTED REGULATION:

Residential R-25 zoning; Comprehensive Plan designation as residential; Transportation System Plan and Development Code access restrictions: any other zoning and building code restrictions or overlay zones that preclude a commercial use; sign code restrictions.

LOCATION:

Lot 63, Hawk's Beard Townhomes; WCTM 1S133AC, Tax Lot 14500. On the south side of SW Scholls Ferry Road, between SW 130th and 135th Avenue.

ZONING DESIGNATION:

R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses are permitted outright and a wide range of civic and institutional uses are permitted conditionally.

APPLICABLE REVIEW CRITERIA:

Tigard Municipal Code Chapter 1.20.

- Mayor Dirksen opened the public hearing. a.
- City Attorney Ramis reviewed the Rules of Procedure. The text of b. these rules is on file with in the City Recorder's office.
- **Declarations or Challenges** C.

- Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits? None reported.
- Have all members familiarized themselves with the application? All members presented indicated they were familiar with the application.
- Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council? There were no challenges.
- d. The Staff Report was presented by Community Development Department staff. The text of the Staff Report is on file in the City Recorder's office.
- e. Public Testimony
 - The applicant, represented by Mike Van, 3860 SW Boeckman Road, Wilsonville, OR 97070, spoke to the City Council in support of the staff's recommendation, but requested that the waiver (as outlined in the proposed ordinance) be permanent and run with the land. He said he would like to withdraw the Measure 37 claim with regard to access restriction. He noted he would agree to the CG zone requirements if the waiver is permanent and runs with the land. He said Measure 37 is moot on this point and believes it will be tested in court.
 - Note: Charles T. Wilson testimony received, which will be entered into the record.
 - Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon advised she is a resident and is also a real estate business attorney. She said she understands the City must waive the land use regulation or pay the landowner for reduced value of property due to a land use regulation. She noted her objections to allowing this parcel to be developed commercially citing the number of similar stores that have been built within a mile of this location. She also noted concerns with traffic congestion. She said the types of business that would be attracted to this site would not be in the best interests of Tigard.
 - Eric Winger, 11090 SW 131st Place, Tigard, Oregon, testified in opposition to a change in zoning citing the following:

- 1. Traffic congestion. He referred to a map and described current traffic conditions.
- 2. Sight distance concerns (relating to safe travel).
- 3. The proximity of wetlands and concerns about the presence of gas tanks.

Mr. Winger advised that the requested change would not be in the best interests of the community.

- Wade Longworth, 11056 SW 131st Place, testified regarding concerns on the impact this proposal would have on the Summerlake area and its natural resources: the creek, wildlife, and drainage.
- Lee Sherman, 10675 SW 133rd Place, Beaverton, OR 97008, testified he has lived at this address for ten years and during that time, there has been a significant increase of traffic on Scholls Ferry Road. He advised of his concerns with the proposed changes with regard to how it would impact traffic flow. He reviewed rezoning concerns and said he was disappointed the owner was not here and noted that the owner lists his address as Clackamas. He said he was opposed to rezoning this property from residential to commercial. He said he would not want to see another strip mall. He cited the City Council goal for seeking parks and open space, which would be a better use of this land. He referred to current businesses located in the area, including a daycare/preschool and the potential problems that would come with a shopping center development. He referred to the more than \$4 million value of the property claimed by the applicant and said he thought that this seemed like an exorbitant amount. He said he was totally opposed to a change in use.
- Clinton Pearson, 11076 SW Eschman Way, Tigard, OR 97223, testified citing his profession as an architect and that he had designed or participated in the design of retail stores including those in Bethany village and the Woodburn stores. He noted that he lives one block away. He advised that his wife was hit in a traffic accident on Scholls Ferry Road. He said he has a number of issues including concerns about traffic and another development similar to the types of development already present. He noted the need to respect homeowners in the area including not obstructing the views from their property. He noted the unpleasantness of looking at blank walls as the view from the residential property. He referred to the importance of pedestrian friendly conditions. He

noted that the property is now an empty lot connected to a wetlands area and requested a pedestrian friendly park connection. He referred to property to the west and his concerns about what might happen there.

- Holly Clark, 10855 SW 130th Avenue, Tigard, Oregon 97223, said she moved into a town home in Tigard and loves Tigard. She said the community offers open space and that she would hate to see it go away. She agreed with testimony about concerns for traffic impacts. She urged the City Council to consider exercising the right to eminent domain and to develop this land into a park.
- Alice Ellis Gaut, 10947 SW Chateau Lane, Tigard, OR 97224, suggested a review to determine whether Federal environmental regulations would be sufficient to warrant a reevaluation of consideration of a waiver of land use regulations. She also noted concerns about fuel seepage.
- Mr. Van responded to testimony in the following rebuttal points:
 - Mr. Grabhorn has owned this property since 1952. He has provided property for environmental uses and also dedicated property for right of way purposes.
 - Accommodations can be made to meet City code requirements for traffic, landscaping, and screening.
- Mr. Winger testified that Measure 37 has not been in effect for that long and advised that legal ramifications are still being worked through. He urged the City Council to use caution in making a change this early and also to consider environmental impacts, which have not been addressed.
- Ms. Ellis Gaut said she did not believe that Mr. Van's rebuttal comments were proper.
- Mayor Dirksen noted, for the record, receipt of testimony from Mr. Charles Wilson. Mr. Wilson's letter is on file in the City Recorder's office.
- f. Staff Recommendation: Planning Manager Bewersdorff noted staff also has concerns about traffic and environmental impacts. He referred to the site development review process, which would apply if the site were to be developed commercially. He further recommended that the waiver be granted to the person rather than to

run with the land as a permanent waiver and he referred to legal issues that might need to be resolved. Mr. Bewersdorff advised the City Council needed to make a decision on this matter noting that a 180-day time limit applies to this application.

City Attorney Ramis clarified that the main issue before the City Council is the transferability of the waiver. If the waiver is transferred and attached to the land, then the commercial zoning becomes a legal, permitted use. If the waiver is granted to the property owner, then the commercial zoning becomes a non-conforming use and is then subject to additional regulations.

g. Council discussion:

Councilor Wilson noted that this is the City's first Measure 37 claim and needs to be considered carefully because of precedence-setting ramifications. He noted the problem with the City's ordinance addressing Measure 37 insofar as it does not address how the value of the land is to be determined and that the market data provided by Mr. Grabhorn does not appear to be in line with comparable properties. He acknowledged that with regard to financial gain, Mr. Grabhorn has presented evidence that he could make more money on this property if it was developed as a commercial use. Councilor Wilson said he concurred with concerns about traffic impact and that this will be the biggest problem.

Community Development Director Hendryx noted how traffic impact fees are applied and Planning Manager Bewersdorff described the development review process and traffic impact fee assessment. There was reference to past review by the Planning Commission with regard to traffic impacts. In addition, there was reference to the City's ordinance relating to a property appraisal for a Measure 37 claim. Changes should be considered to clarify property appraisals and additional ways to recover costs of impacts.

Councilor Woodruff commented that Mr. Grabhorn has been the property owner for 53 years. He noted the City must make sure it adheres to the law. He pointed out that the testimony received tonight would be reviewed during the design process.

Councilor Sherwood advised that this is not a land use issue before the City Council; rather, it is a claim. She noted the City could not pay the \$4.6 million to purchase the property. She noted her disagreement with Measure 37. Councilor Sherwood also advised that when this is to be heard as a land use issue, property rights and free enterprise must also be considered. She advised she would be in favor of granting the waiver to Mr. Grabhorn and not to the land.

Councilor Woodruff noted that this is private property and not subject to eminent domain. The property owner has the ability to make choices as to how the property is to be developed.

Mayor Dirksen commented on the passage of Measure 37 and noted, that it is likely that some who are present at tonight's meeting likely voted in favor of this measure. He suggested that the matter before the City Council at this time could be the "poster child" of what Measure 37 was attempting to address and it seemed to him literally impossible to make an argument against granting a waiver. In additional comments regarding voters approving Measure 37, Mayor Dirksen agreed that there were issues that needed to be addressed with regard to property rights; however, he believed that Measure 37 represented taking a sledge hammer approach to an issue that could have been corrected with a scalpel. He said that if a waiver is to be granted in this instance, not all regulations will be suspended in that the limitations and conditions for commercial zoning must apply and those will be addressed. He concurred that the waiver should be granted to the property owner.

- h. Mayor Dirksen closed the public hearing.
- i. Council consideration:

Motion Councilor Woodruff to adopt Ordinance No. 05-13. Councilor Sherwood seconded the motion.

City Recorder Wheatley read the following:

ORDINANCE NO. 05-13 – AN ORDINANCE ADOPTING FINDINGS TO GRANT A BALLOT MEASURE 37 WAIVER OF THE R-25 ZONING RESTRICTIONS TO BURTON GRABHORN FOR 10.5 ACRES AT THE INTERSECTION OF SCHOLLS FERRY ROAD AND 135TH AVENUE (LOT 63, HAWK'S BEARD TOWNHOMES, AND TAX LOT 14500, WCTM 1S133AC) TO ALLOW A COMMERCIAL SHOPPING CENTER, VARIOUS TENANTS/USES, AS WELL AS RETAIL SALES, VEHICLE FUEL SALES AND SIGNAGE OF THE C-G GENERAL COMMERCIAL ZONE SUBJECT TO APPLYING FOR AND RECEIVING SITE DEVELOPMENT REVIEW APPROVAL (M372005-00003)

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:

Yes

Councilor Harding:

Yes

Councilor Sherwood:

Yes Yes

Councilor Wilson: Councilor Woodruff

Yes

8. CONSIDER APPOINTING CRAIG PROSSER AS TIGARD CITY MANAGER

Council members reviewed and commented on the public the process for selecting a new City Manager, which included a nationwide search. Members of the community assisted the City Council in the evaluation process and two candidates were clearly the top choices. Mr. Prosser served as interim City Manager for the last several months and he has the respect and admiration of people in government in the metro area. Mr. Prosser demonstrated to a citizen panel and the City Council that he deserved to be appointed to the City Manager position. The City Council was pleased that Mr. Prosser is willing to continue to serve.

Motion was made by Councilor Sherwood to appoint Craig Prosser as Tigard City Manager. Councilor Wilson seconded the motion.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:

Yes

Councilor Sherwood:

Yes

Councilor Wilson:

Yes

Councilor Woodruff

Yes

City Manager Prosser expressed appreciation to the City Council and the citizens of Tigard and noted his dedication to public service.

Mayor Dirksen administered the oath of office to City Manager Craig Prosser.

9. LOCAL CONTRACT REVIEW BOARD (LCRB) ITEM
Removed from the August 9, 2005 consent agenda for separate
consideration - CONSIDER AUTHORIZING REIMBURSEMENT TO
VENTURE PROPERTIES FOR WATERLINE CONSTRUCTION
THROUGH SUMMIT RIDGE SUBDIVISION DEVELOPMENT

Assistant Public Works Director Rager presented the staff report to the Local Contract Review Board (LCRB). LCRB rules provide that when a developer is required by condition of approval in a land use action to construct public improvements, the City can consider the developer a sole source and is not required to bid the work in a competitive process. Venture Properties was

conditioned to install an 18-inch public transmission line through their Summit Ridge Subdivision development that will support the 550-foot pressure zone improvements in that area. Venture Properties completed that work and the waterline is now ready for use.

The City will reimburse only for the cost of over-sizing. Mr. Rager provided an August 26, 2005, memorandum to the City Council explaining the LCRB rules that provide for this reimbursement process. A copy of this memorandum is on file in the City Recorder's office.

Mr. Rager described his misunderstanding about the reimbursement for over-sizing. The reimbursement amount of \$124,665.06 is the recommended amount regarding the costs incurred by the developer for over-sizing. A developer is to be reimbursed for costs added for a pipe size over 12 inches; however Condition No. 29 for the Summit Ridge Subdivision provided that the applicant would be reimbursed the difference in cost to upsize the line from 8 inches to 18 inches. Mr. Rager clarified (which is a change from the staff report on this item) that the expenditure related to this item can be shown in the 2004-05 fiscal year, since that is when the expense occurred.

Motion by LCRB Chair Dirksen, seconded by Board Member Sherwood, to authorize reimbursement to Venture Properties for the construction of a large diameter transmission waterline through the Summit Ridge Subdivision development.

The motion was approved by a unanimous vote of LCRB members present:

LCRB Chair Dirksen: Yes LCRB Board Member Sherwood: Yes LCRB Board Member Wilson: Yes LCRB Board Member Woodruff Yes

- 10. COUNCIL LIAISON REPORTS: None
- 11. NON AGENDA ITEMS None
- 12. EXECUTIVE SESSION: Not held.

	Catharina Whatthey City Dagadan
Attest:	Catherine Wheatley, City Recorder
Mayor, City of Tigard	
Date:	

ADJOURNMENT: The City Council meeting adjourned at 10:16 p.m. A City Center Development Agency meeting was held immediately following the Council meeting.

MEMORANDUM



TO:

Honorable Mayor and City Council

Agenda Item No. For Agenda of October 11, 2005

FROM:

Cathy Wheatley, City Recorder

DATE:

October 4, 2005

SUBJECT: Three-Month Council Calendar

Regularly scheduled Council meetings are marked with an asterisk (*).

October Colon Review Colon Review Colon Review Holl								
11*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall						
17	Monday	Joint Meeting with Cities of Tualatin, Durham and King City, and with the Tigard-Tualatin School Board, 5:00 p.m. – Tualatin Police Facility, Steve Winegar Meeting Room, 8650 SW Tualatin Road, Tualatin, Oregon						
18*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall						
25*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall						
November								
8* Tuesday		Council Business Meeting – 6:30 pm, Town Hall						
11	Friday	Veteran's Day - City Offices Closed						
15*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall						
22*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall						
24-25	Thurs & Fri	Thanksgiving Holiday - City Offices Closed						
29	Tuesday	5 th Tuesday Council Meeting – 7-9 p.m., Tigard Water Auditorium						
December								
13*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall						
20*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall						
26	Monday	Christmas Holiday – City Offices Closed						
27*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall						

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Agenda Item No. 4.26 Tigard City Council Tentative Agenda 2005 Meeting of 2005 Meeting Date: October 17, 2005 Meeting Date: October 18, 2005 Meeting Date: October 25, 2005 Meeting Type/Time: Jt. Mta/ 5:00 PM Meeting Type/Time: Workshop/6:30 p.m. Meeting Type/Time: Business/6:30 p.m. Location: *Tualatin Police Facility Location: City Hall Location: City Hall Greeter: Greeter: Greeter: Materials Due @ 5: October 3, 2005 Materials Due @ 5: October 4, 2005 Materials Due @ 5: October 11, 2005 Bid Opening Deadline: Bid Opening Deadline: October 3, 2005 Bid Opening Deadline: October 10, 2005 Scan Deadline @ noon: Scan Deadline @ noon: September 30, 2005 Scan Deadline @ noon: October 7, 2005 Reg to Sched Due @5: September 9, 2005 Reg to Sched Due @5: September 16, 2005 Reg to Sched Due @5: September 23, 2005 Televised: No Televised: lΝο Televised: Yes Attorney Attends: No Attorney Attends: Νo Attorney Attends: No Study Session Joint Meeting with Cities of Tualatin, Durham, 1. Jt. Meeting with Senior Center Board - Loreen Process Review for RFP - Legal Services -King City & TTSD 30 min. (Loaves & Fishes will provide Council Joe B. - 20 min. Tualatin Police Facility with dinner - 6 p.m.) Steve Winegar Meeting Room Jt. Meeting with Tree Board on Proposed 8650 SW Tualatin Road Alterations to Chapter 18 and Amend Tree Tualatin, Oregon Board Resolution - Dennis - 30 min. Time Available: 45 min - 20 scheduled/25 left RECESS COUNCIL MEETING FOR Consent Agenda Present 3rd Quarter Goal Update - Joanne JOINT CCDA/CC/PC -Urban Renewal Urban Renewal Plan Workshop Budget Amend 4 for GIS Coordinator -Tom I. Truancy Ordinances Duane - 45-60 min.- Jeff T & Gary F. Budget Amend 5 for Expend Homeland Security Land Purchases and Sales Grant Funds - Wash Sq Mall - Tom I. RECONVENE COUNCIL MEETING Two Budget Amendments: Branding & Urban Renewal Public Outreach Plan E-Mail Discuss. - Tom I. (Nadine, Cathy) - 20 min Update on WCCLS - Margaret - 15 min. Amend TPOA Addendum - Side G Letter - Bill Update on Enhanced Citizen Involvement Consider Increasing Tree Board Citizen Members from 4 to 5 - RES - Dennis Opportunities - Liz - 15 min. Branding/Logo Design - Liz - 30 min. **Business Meeting** Tigard Access Plan Progress Report - TriMet General Manager Fred Hansen - Tom C. - 25 min Request by Tri-Met for above to be first... Meet w/ODOT Region 1 Mgr. Matthew Garrett -Gus - 20 min. PHQJ - Sunrise Annexation - ZCA 2005-0004 -Tom C. - 15 min. Annual Police Report - Bill D. - 30 min. Status Update - TGM Grant for 99W Corridor Improvement & Management Plan - Gus - 10 min Time Avail: 200 min. - Time Scheduled: 200 min. Time Avail.: 135 min. - Time Scheduled: 100 min

Time Left: 35 min

Time Left: Meeting full.

Tigard City Council Tentative Agenda 2005

Meeting Date:	November 8, 2005	Meeting Date:	November 15, 2005	Meeting Date:	November 22, 2005	
Meeting Type/Time:	Business/6:30 p.m.	Meeting Type/Time:	Workshop/6:30 p.m.	Meeting Type/Time:	Business/6:30 p.m.	
Location:	City Hall	Location:	City Hall	Location:	City Hall	
Greeter:		Greeter:		Greeter:		
Materials Due @ 5:	October 25, 2005	Materials Due @ 5:	November 1, 2005	Materials Due @ 5:	November 8, 2005	
Bid Opening Deadline:	October 24, 2005	Bid Opening Deadline:	October 31, 2005	Bid Opening Deadline:	November 7, 2005	
Scan Deadline @ noon:	October 21, 2005	Scan Deadline @ noon:	October 28, 2005	Scan Deadline @ noon:	November 4, 2005	
Req to Sched Due @5:	October 7, 2005	Req to Sched Due @5:	October 14, 2005	Req to Sched Due @5:	October 21, 2005	
Televised:	Yes	Televised:	No	Televised:	Yes	
Attorney Attends:	Yes	Attorney Attends:	No	Attorney Attends:	No	
Study Session			T		Study Session	
City Manager Prosser ab	sent	Update on Potential Final	Update on Potential Financial-Related Ballot			
		Measures from Other Jurisdictions - Tom I.				
Report to Council - Rank	ed Responses from	20 min.				
RFP - Legal Services - 3	•		Insurance Coverage, Marketing Update & Agent			
,		- T	of Record - Loreen - PPT - 20 min			
Time Available: 45 min -	30 scheduled/15 left		,			
Consent Agenda	OG BONGGRANDEN TO TON	Executive Session - Land Acquisition for Park		Consent Agenda		
o one one rigorial			Purposes - Dennis - 45 min.			
		r dipoded « Definid » -10	111111.	i		
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Business Meeting		CCDA/CC - Status Report on Urban		Business Meeting		
Amend TMC - Change P	ermitted Construction	Renewal Plan - 30 min Tom C.		Council (not CCDA): Public Hearing		
Noise Hours - ORD - 5		Kenewai Fiait - 30 ijimi Tom C.		- Urban Renewal Plan Hearing - RES		
Amend TMC - Clarify Pa				- Urban Renewal Lane Use Hearing - RES		
ORD - Tom C 5 min	IKS ODG ASSESS			Urban Renewal Ballot Title Adoption - PH -		
	· .				RES - Duane 45 min.*	
Need request to Schedu						
Youth Advisory Council - Liz				* If needed, continue to Dec. 13.		
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Tigard City Council Tentative Agenda 2005

Meeting Date:	November 29, 2005	Meeting Date:	December 13, 2005	Meeting Date:	December 20, 2005
Meeting Type/Time:	Special/ 7-9 p.m.	Meeting Type/Time:	Business/6:30 p.m.	Meeting Type/Time:	Workshop/6:30 p.m.
_ocation:	Tigard Water Auditorium	Location:	City Hall	Location:	City Hall
Greeter:		Greeter:	1	Greeter:	,
Materials Due @ 5:		Materials Due @ 5:	November 29, 2005	Materials Due @ 5:	December 6, 2005
Bid Opening Deadline:		Bid Opening Deadline:	November 28, 2005	Bid Opening Deadline:	December 5, 2005
Scan Deadline @ noon:		Scan Deadline @ noon:	November 25, 2005		
				Scan Deadline @ noon:	December 2, 2005
Req to Sched Due @5:	. ,	Req to Sched Due @5:	November 11, 2004	Req to Sched Due @5:	November 18, 2005
Televised:	No	Televised:	Yes	Televised:	No
Attorney Attends:	No	Attorney Attends:	Yes	Attorney Attends:	No
		Study Session	···		
FIFTH TUESDAY Determine if Stacie Yo	est will facilitate				
			·		
		Consent Agenda			
		Appoint PC Members - RI	ES - Tom C/Dick		
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		Business Meeting			
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				Need Request to Schedul	e - Standing Meeting:
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		*Urban Renewal Items?		•	e - Standing Meeting:
		*Urban Renewal Items? * Opened on November 2		•	e - Standing Meeting:
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Meeting Date:	December 27, 2005
Meeting Type/Time:	Business/6:30 p.m.
Location:	City Hall
Greeter:	
Materials Due @ 5:	December 13, 2005
Bid Opening Deadline:	December 12, 2005
Scan Deadline @ noon:	December 9, 2005
Req to Sched Due @5:	November 23, 2005
Televised:	Yes
Attorney Attends:	No
Study Session	
Consent Agenda	
Present 4th Quarter Goal U	Jpdate - Joanne
Present 4th Quarter Goal L	Jpdate - Joanne
Present 4th Quarter Goal L	Jpdate - Joanne
Present 4th Quarter Goal U	Jpdate - Joanne
Present 4th Quarter Goal C	Jpdate - Joanne
	Jpdate - Joanne
Present 4th Quarter Goal C	Jpdate - Joanne

4

AGENDA ITEM#_	4,3
FOR AGENDA OF	October 11, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Consider Funding Request from St. Vincent de Paul from the City's Residential
Services Agency Emergency Set-aside
PREPARED BY: Tom Imdieke DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
Should the City Council approve the request from St. Vincent de Paul for a \$2,500 grant from the City's Residential Services Agency Emergency Set-aside.
STAFF RECOMMENDATION
Approve the attached resolution approving the funding request from St. Vincent de Paul in the amount of \$2,500.
<u>INFORMATION SUMMARY</u>
The FY 2005-06 Adopted Budget includes \$5,125 in the Social Services and Community Events budget for the funding of a "Residential Services Agency Emergency Set-aside." The intent of the set-aside was to assist agencies that provide emergency food and housing to those in need. The City has received a letter from John Cook, Vice President of St. Vincent de Paul, requesting a grant in the amount of \$2,500 from the emergency set-aside. The grant would help offset a portion of the planning and building fees that were incurred during the construction of their new food distribution warehouse. This is being considered as a one-time offset to help with the warehouse and not part of their on-going operation or maintenance of the agency or program facilities. This had earlier been discussed as part of the City's affordable housing assistance budget. At that time, Council decided that the request did not meet the Affordable Housing Assistance Program guidelines and established a Residential Services Agency Emergency Fund for this purpose. St. Vincent de Paul reported in the letter that they provide emergency food boxes to about 200 families in Tigard
each month. They are anticipating an increase in this number starting in October when they expand their hours of operation.
OTHER ALTERNATIVES CONSIDERED
Do not approve grant.
VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY
N/A
ATTACHMENTIIST

Resolution approving the funding request.

Letter from St. Vincent de Paul requesting the grant in the amount of \$2,500.

City Council Residential Service Agency Emergency Fund Policy

FISCAL NOTES

Grant amount requested is \$2,500. Appropriations in the amount of \$5,125 were approved in the FY 2005-06 Social Services and Community Events budget.

CITY OF TIGARD, OREGON

RESOLUTION NO.	05
KESOLUTION NO.	05-

A RESOLUTION APPROVING THE FUNDING REQUEST FROM ST VINCENT DE PAUL FROM THE CITY'S RESIDENTIAL SERVICES EMERGENCY SET-ASIDE
WHEREAS, the FY 2005-06 Adopted Budget includes funds in the amount of \$5,125 for the establishment of a "Residential Services Emergency Set-aside"; and
WHEREAS, the set-aside was established to assist agencies that provide emergency food and housing to those in need; and
WHEREAS, St Vincent de Paul recently completed the construction of a new food dsitribution warehouse; and
WHEREAS, St Vincent de Paul has requested a grant of \$2,500 from the set-aside to offset a portion of the planning and building fees incurred during the construction of the new facility; and
WHEREAS, St Vincent de Paul provides emergency food boxes to about 200 families in the City of Tigard each month; and
WHEREAS, the grant would support the intent and goal of the emergency set-aside program.
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:
SECTION 1: A grant to St Vincent de Paul in the amount of \$2,500 be given to help offset a portion of the cost of the planning and building fees associated with the construction of the new food distribution warehouse.
SECTION 2: This resolution is effective immediately upon passage.
PASSED: This day of 2005.
Mayor - City of Tigard
ATTEST:
City Recorder - City of Tigard

RESOLUTION NO. 05 - Page 1

CITY OF TIGARD

RESIDENTIAL SERVICE AGENCY EMERGENCY FUND POLICY

The City of Tigard may, upon occasion, receive requests from social service agencies and non-profit corporations for assistance to address one time or emergency funding needs that impact their ability to deliver social services to Tigard residents. This policy provides the framework within which allocation of funds will be made by the City Council.

- The amount available for distribution each fiscal year will be included as a recommendation from the Social Services Funding subcommittee to the Budget Committee during the annual Budget process. In no case shall the allocation for the Residential Service Agency Emergency Fund exceed five percent of the total allocated for social service grants.
- 2. The amount designated for the Residential Service Agency Emergency Fund shall be included in the Social Service Agency funding so that the Social Service Agency Funding limit is not exceeded.
- 3. Any appropriation in the Residential Service Agency Emergency Fund remaining at the end of the Fiscal year shall be rolled into the General Fund Ending Fund Balance.
- 4. Agencies requesting funds shall demonstrate the following:
 - a. The request meets an unmet or growing need to support basic services for Tigard residents (food, shelter, clothing).
 - b. The request is not to fund on-going operation or maintenance of the agency or program facilities.
 - c. The request does not meet the criteria for the City's Social Services program.
 - d. The agency meets the reporting requirements as Social Services Grant recipients.

ST. VINCENT DE PAUL

TIGARD CONFERENCE 9905 S W McKenzie St. Tigard OR 97223



PLEASE HELP US HELP OTHERS

We feed the hungry, clothe the naked and provide shelter for the homeless. We put shoes on a child's feet, and give beds to those who sleep on the floor.

September 8, 2005

Craig Prosser City Manager City of Tigard 13125 S W Hall Tigard OR 97223

Dear Mr. Prosser;

We are hereby applying for a Grant to offset planning and building fees occurred during the construction of our new food distribution warehouse. We are asking for \$2,500 from the Residential Service Agency Emergency Fund. Our total planning and building fees were \$9,068.43.

We provide emergency food boxes to about 200 families in Tigard We anticipate increasing this number starting in October when we expand our hours of operation. Our new building has made our operation more efficient and easier for our clients to receive the food they need.

Thank you for your consideration of this matter.

John E Cook

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Vice President

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AGENDA ITEM#_	4.4
FOR AGENDA OF	October 11, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution to Discontinue the Local Improvement District Formation Process for
the Proposed 79 th Avenue Local Improvement District
PREPARED BY: A.P. Duenas DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
Should Council discontinue the Local Improvement District (LID) formation process for the proposed 79 th Avenue LID?
STAFF RECOMMENDATION
That Council approve the attached resolution discontinuing the LID formation process for the proposed 79 th Avenue LID.
INFORMATION SUMMARY
Council authorized the preparation of a Preliminary Engineer's Report on the proposed 79 th Avenue LID by Resolution No. 05-24. The preliminary cost estimates developed during the preparation of the report turned out higher than originally expected. Because most of the lots in the proposed LID boundary are relatively large, the estimated assessments are high. For those property owners that are not contemplating development of their lots, or for those on a fixed income, the large assessments would be a huge issue. A preliminary progress report submitted to Council via memorandum dated June 16, 2005 transmitted the estimated costs and presented options for Council to consider for improvements to the street. Council discussed the options at its meeting on September 20, 2005 and concluded that the LID effort should be discontinued at this point. Many of the properties between Gentle Woods Drive and Bonita Road are currently undeveloped. As development on these properties occurs, the public improvements required on 79 th Avenue as part of the development process should eventually resolve the vertical alignment issues without need for formation of an LID. The attached resolution ends the LID formation process for the proposed improvements on 79 th Avenue.
OTHER ALTERNATIVES CONSIDERED
None

VISION°TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Construction of the improvements in the proposed LID would have met the Tigard Beyond Tomorrow goal of *Improve Traffic Safety*.

ATTACHMENT LIST

- 1. Resolution discontinuing the LID formation process for the proposed 79th Avenue LID
- 2. Resolution No. 05-24
- 3. Memorandum to Council dated June 16, 2005

FISCAL NOTES

The amount of \$60,000 was approved for the remainder of FY 2004-05. Most of the work in the preparation of the Preliminary Engineer's Report was performed by in-house Engineering Department staff with assistance from a consultant on the public process. Work on the preparation of the report stopped in early June 2005 (after the preliminary progress report was completed) pending discussion with and direction from Council regarding the proposed LID. The expenditures at this point are approximately \$5,000 for the consultant work. The consultant contract will be terminated once Council approves the resolution to end the LID effort. The final cost, excluding staff time, is expected to be significantly less than \$10,000.

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CITY OF TIGARD, OREGON

RESOLUTION NO. 05-____

A RESOLUTION DISCONTINUING THE LOCAL IMPROVEMENT DISTRICT (LID) FORMATION PROCESS FOR THE PROPOSED 79 TH AVENUE LID.			
to examine the p	roposed LI	Engineer's Report for the Engineer's Report for the English for the English English English for the English En	or a proposed Local Improvement District (LID) is intended wide the basis for determining the feasibility of forming a ements; and
WHEREAS, Ci Engineer's Repor	ty Council t for the pro	through Resolution posed 79 th Avenue	n No. 5-24 approved the preparation of the Preliminary Local Improvement District (LID); and
WHEREAS, a p Report produced	reliminary estimated c	progress report midosts that were highe	lway through the preparation of the Preliminary Engineer's or than expected; and
WHEREAS, the assessed to those	properties property ov	within the propose wners not planning o	d LID boundary are relatively large and the amounts to be levelopment would be a huge burden to those owners; and
WHEREAS, and developments are boundary; and	icipated im e expected t	provements by dev to resolve most of the	relopers on 79 th Avenue proportional with the size of their ne major vertical alignment issues within the proposed LID
WHEREAS, Cir September 20, 20	ty Council 105 and con	discussed options a cluded that the LID	regarding the anticipated improvements at its meeting on effort should be discontinued at this point.
NOW, THEREI	FORE, BE	IT RESOLVED by	y the Tigard City Council that:
SECTION 1:	The Eng	ineering staff is on the on the	directed to discontinue the LID formation process by ne preparation of the Preliminary Engineer's Report.
SECTION 2:	This reso	lution is effective in	nmediately upon passage.
PASSED:	This	day of	2005.
			Mayor - City of Tigard
ATTEST:			
City Recorder - C		rd	

RESOLUTION NO. 05 -

Page 1

CITY OF TIGARD, OREGON

RESOLUTION NO. 05- 24

A RESOLUTION DIRECTING THE ENGINEERING STAFF TO PREPARE A PRELIMINARY ENGINEER'S REPORT FOR THE PROPOSED SW 79TH AVENUE LOCAL IMPROVEMENT DISTRICT AND DIRECTING THE ESTABLISHMENT OF A FUNDING MECHANISM FOR THE PREPARATION OF THE REPORT.

WHEREAS, SW 79th Avenue, from SW Bonita Road to SW Durham Road, is designated as a neighborhood route in Tigard's Transportation System Plan; and

WHEREAS, a significant portion of the street is in substandard condition and requires reconstruction and vertical realignment to meet current geometric standards; and

WHEREAS, the owners of five lots along SW 79th Avenue representing forty-eight percent of the total area of the proposed local improvement district (LID), have requested that a LID be formed to improve the street to meet current standards; and

WHEREAS, the Engineering staff prepared a Preliminary Evaluation Report (attached), which was submitted to the City Council for discussion and direction during its March 8, 2005 meeting; and

WHEREAS, the Preliminary Evaluation Report determined that the proposed LID appears feasible and recommended that the City Council take the next step in the LID formation process by authorizing the preparation of a Preliminary Engineer's Report; and

WHEREAS, the Preliminary Evaluation Report recognized that there is no funding currently available to proceed with the project and recommended that the City Council direct the establishment of that funding mechanism by designating the Gas Tax Fund as the funding source; and

WHEREAS, the City Council discussed the proposed LID and indicated that the LID boundary and improvements to be constructed by the LID are satisfactory as submitted; and

WHEREAS, the City Council has directed staff to prepare a resolution authorizing preparation of a Preliminary Engineer's Report and submit that resolution for adoption at a City Council business meeting.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Engineering staff is directed to proceed with preparation of a Preliminary Engineer's Report for the proposed LID in accordance with the proposed LID boundary and improvements as described in Alternative 1 of the Preliminary Evaluation Report.

SECTION 2: The Preliminary Engineer's Report should include the scope of work, location of the proposed improvements, proposed district boundaries, estimated cost, proposed assessment methods, and other information that may be relevant to the feasibility of the improvements and district. The report should recommend approval, approval with conditions, or denial.

RESOLUTION NO. 05 - 24 Page 1 **SECTION 3:**

The City of Tigard shall provide the funding for preparation of the Preliminary Engineer's Report. The amount needed for FY 2004-05 to prepare the report is approximately \$60,000.

SECTION 4:

The City staff is directed to establish the funding mechanism in that amount for the engineering work using the Gas Tax as a funding source. Any budget adjustments requiring Council action and necessary for the establishment of the project funding shall be brought to Council for appropriate action.

SECTION 5:

All costs incurred after the date of this resolution to prepare the Preliminary Engineer's Report and form the district shall be included as part of the LID costs and shall be reimbursed to the City if the LID is formed and the improvements are constructed.

SECTION 6:

This resolution is effective immediately upon passage.

PASSED:

This 12 1/2 day of April 2005.

Mayor City of Tigard

ATTEST:

Greer A. Gaston, Deputy City Recorder

Eveng/greg/lithsw 79th av/sw 79th pre report residoc



MEMORANDUM CITY OF TIGARD

13125 SW Hall Blvd. Tigard, OR 97223 Phone 503-639-4171 Fax: 503-624-0752

TO:

Mayor and City Councilors

Craig Prosser, Interim City Manager

FROM:

Gus Duenas

City Engineer

DATE:

June 16, 2005

SUBJECT:

Progress Report on the Proposed 79th Avenue Local Improvement District

Background

Staff requested Council approval to prepare a Preliminary Engineer's Report for the proposed SW 79th Avenue Local Improvement District (LID). This request came as a result of requests from local property owners/developers who were interested in improving the street. A Preliminary Evaluation of the proposed LID was presented to Council at the March 8, 2005 meeting. The Preliminary Evaluation Report found that an LID is feasible, but that additional work was needed to establish the LID boundary and determine the level of support for the LID. Unless a developer consolidates lots sufficient to justify full street improvements, no one development can completely resolve the vertical alignment problems along that street. The lack of cooperation from those not developing was stymicing the efforts of those interested in improving the street as part of their developments. This is the primary reason the lot owners/developers approached the City regarding formation of an LID to perform the improvements.

The proposed LID presents an opportunity to comprehensively address the deficiencies of the existing street by widening it, reconstructing it to correct the severe vertical alignments problems, and by providing sidewalks and bike lanes along the street. The LID was proposed to extend from Bonita Road south to just north of Gentle Woods Drive. Council approved the next step in the LID formation process through Resolution No. 05-24 authorizing the preparation of a Preliminary Engineer's Report.

Preliminary Progress Report

Attached is a preliminary progress report prepared by the Engineering Department staff outlining the recommended LID boundary, the properties that support the LID, the properties that have signed non-remonstrance agreements when they developed, and those properties that potentially support the formation of an LID to perform the improvements. The property owners that have signed a non-remonstrance agreement against formation of an LID cannot formally remonstrate against an LID and their lots count as "yes" votes. However, this does not mean they would actually support the LID—they just cannot remonstrate against it. Council cannot proceed with the LID formation if two-thirds of the property owners by area remonstrate against the LID. It is clear that the overall percentages (46% without the potential support and 76% with all the potential support shown) show that an LID may be formed.

The City has successfully used the LID process to improve certain streets during the past 20 years. The improvements to 135th Avenue (from Walnut Street to Scholls Ferry Road) in 1987 is an example of an LID that passes through a residential area. Other LIDs include 72nd Avenue, 69th Avenue, 68th Parkway, and Sequoia Parkway, which pass through areas primarily commercial or industrial in nature.

The attached preliminary document shows the preliminary project costs, the potential credits that the City could provide to the 79th Avenue LID, the net cost that would be borne by the property owners, and the assessment breakdown for each of the properties. Contribution from the Street Maintenance Fee is shown as a potential credit primarily because the existing 79th Avenue badly needs reconstruction and maintenance. The amount shown represents what would theoretically be spent to reconstruct just the existing street without vertical realignment. However, use of those Street Maintenance Fee funds on the street improvements is probably not a wise thing to do because it is likely to create the perception that it is being used for new construction. It is really crucial for the City's credibility to ensure that those funds are used strictly for street maintenance purposes. I would therefore not factor that amount into the credits to be applied to the LID, which would raise the LID costs by that amount.

Because most of the lots are relatively large, even with all the potential credits applied, the amounts to be assessed remain quite high. For those property owners that are not contemplating development of their lots, or for those on a fixed income, the large assessments would be a huge issue.

When an LID is formed, under state law, the City is able to offer financing assistance to property owners. This assistance is in the form of assessment contracts allowing payment over time (usually 10 years) at low interest rates. Even with this assistance, large assessments could be a problem for some property owners.

We do not want to present the information developed so far to the neighborhood until Council has had an opportunity to receive this progress report and see the preliminary information that has been developed. Because the proposed assessments are certain to arouse strong opposition among certain property owners (albeit a minority of the property owners in that area), it is prudent at this time to examine alternatives to formation of the LID for construction of the improvements before the Preliminary Engineer's Report is finalized.

Options for Consideration

The preliminary work done so far indicates that an LID may be formed, but that assessments would be relatively large for certain property owners that are apparently not interested in developing at this time. We met with potential developers along that street on Thursday, June 16, 2005 to let them know of the current status of the Preliminary Engineer's Report and to discuss potential options that may be considered for the street improvements either through a revised LID boundary or without formation of the LID.

The following are some options that may be considered for SW 79th Avenue:

Option 1: Continue with the LID as proposed. The attached preliminary assessment provides all the relevant information for this option.

Option 2: Revise the LID boundary to full street improvements in front of the developing properties. The developer is concerned that the lack of cooperation from property owners across the street may continue to present an obstacle to the improvements. This option may be considered to ensure that the street is properly constructed with land acquisition as needed to construct proper slopes and driveway transitions to the properties on the crest of the hill. The two lots that are at the crest of the hill have both signed non-remonstrance agreements, which presumably was required when the larger property was subdivided.

Option 3: Let the developer perform full street and three-quarter street improvements sufficient to resolve some of the vertical alignment problems on the street.

This may be the way to address some of the deficiencies in the street without going through the relatively expensive LID formation process. A proposed development has one large lot on the west side of the street and two large lots on the east side of the street. The development appears large enough to justify vertical alignment of the street along the frontage of the development. We have performed sufficient design work to realign the street such that it can be constructed to full street improvements along a portion of the street and three-quarter street improvements over the rest of that frontage.

Although no additional right-of-way appears to be needed along this segment using the vertical and horizontal alignments we have developed, the cooperation of two property owners along the crest of the hill may be needed for proper transitions from the streets to the driveways and for the slopes to be reshaped. The new alignments match up with the existing street at a natural transition point located on the south end of the proposed development. Allowing the developer to construct the street improvements would resolve some of the more difficult vertical alignment problems. Keeping the LID formation as an option may elicit the cooperation the developer needs to complete the improvements. Proper disposal of storm drainage that could be readily resolved with the full street

improvements from Bonita to Gentle Woods may be an issue with the reduced scope. However, at this point, that issue appears to be resolvable.

As developments proceed south towards Gentle Woods Drive, with right-of-way acquisition at key locations by the City, those developments could widen the street to at least three-quarters width or possibly full width. In addition, the two large lots northeast of the Leiser Park Subdivision adjacent to Bonita Road are undeveloped residential lots zoned R-12. The east side of 79th Avenue and the intersection of the street with Bonita Road can be addressed if those two lots come in for development. Therefore, over time, the street from Bonita Road to Gentle Woods can be significantly realigned and reconstructed to resolve the more serious issues on the north half of 79th Avenue.

Council Input

Council input on the three options is needed at this point. If the preference is to move ahead with the LID as proposed (Option 1), staff will continue towards completion of the Preliminary Engineer's Report with the boundary and improvements as attached. If a reduction in scope and limits of the LID is the direction (Option 2), staff will adjust the report to limit the LID. If the preference at this point is not to form the LID (Option 3), staff will work with the potential developers to provide as much of the street improvements as can be justified with the proposed developments.

Attachment

c: Vannie Nguyen, CIP Division Manager
Marco Cabanillas, Project Engineer
Karleen Aichele, Acting Engineering Technician III

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AGENDA ITEM#	5
FOR AGENDA OF	October 11, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Adopt Heritage Tree Program
PREPARED BY: Matt Stine/Dan Plaza DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
The City Council will consider adopting the proposed Heritage Tree program as presented by the Tree Board.
STAFF RECOMMENDATION
Adopt the proposed Heritage Tree Program.
INFORMATION SUMMARY
The proposed Heritage Tree Program was created by the Tigard Tree Board as a method to identify and bring public awareness to very large and old trees growing within the City's limits. This program will offer incentives to private landowners who have a heritage tree growing on their property.
OTHER ALTERNATIVES CONSIDERED
Do not adopt the Heritage Tree Program.
VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY
Tigard Beyond Tomorrow: Growth and Growth Management, Goal #1, Strategy #2- Develop and implement design standards that preserve and protect open space, greenways and natural areas.
ATTACHMENT LIST
 - Memo dated 8/30/05 - City's Financial Contributions for Heritage Tree Program - Resolution - Exhibit 1 - Heritage Tree Program Guidelines and Rules
FISCAL NOTES

One time costs are estimated at \$1,000 to \$1,500 per designation, but this is totally dependent upon the condition of the trees at the time of designation. In addition, on-going costs will be about \$650 per year.

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MEMORANDUM



TO:

Dan Plaza

FROM:

Matt Stine

RE:

City's Financial Contributions for Heritage Tree Program

DATE:

August 30, 2005

On the financial side of things related to the Heritage Tree Program I can think of:

1) Plaques

- 2) Assistance with maintenance, i.e. pruning, fertilizing, soil amending, debris clean-up and/or removal
- 3) Pamphlets showing the locations of each Heritage Tree
- 4) Extra staff time tracking the trees, database creation and maintenance, etc.

These are the costs associated with the Heritage Tree Program that I can foresee as of right now. The initial costs for each tree will be highest at the beginning of the program since that is when the pruning and necessary soil amending will take place in addition to the purchase and installation of the trees' plaques. My estimate per tree at the time of the initial designation is:

- \$70.00 \$100.00 per plaque (a rough estimate provided by a plaque manufacturer)
- \$60.00/hr. for pruning and soil amending X 15 man-hours = \$900.00 (\$150 per year from then on)
- \$500.00 for pamphlet design, layout and printing
- \$500.00 per year in extra staff time

Please let me know if you have any further questions or need more information. Thanks.

CITY OF TIGARD, OREGON

RESOLUTION	NO. 05-
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•	ne purpose of the Heritage Tree Program is to foster appreciation and provide for voluntaritage Trees within the Tigard City limits, and	ıry
	June 21, 2005 the Tree Board met with the City Council in a joint meeting to discuss to Heritage Tree Program for the Tigard City Council to consider and adopt, and	hε
WHEREAS, The a Heritage Tree I	e City Council directed City staff to evaluate the financial and legal aspects of establishi Program,	ng
NOW, THEREF	ORE, BE IT RESOLVED by the Tigard City Council that:	
SECTION 1:	The Heritage Tree Program recommended by the Tigard Tree Board is adopted.	
SECTION 2:	The Heritage Tree Program's Guidelines and Rules are set forth in Exhibit 1 (attached).	
SECTION 3:	This resolution is effective immediately upon passage.	
PASSED:	This day of 2005.	
· ·	Mayor - City of Tigard	_
ATTEST:		
City Recorder - C	City of Tigard	
,		

RESOLUTION NO. 05 - Page 1

Heritage Tree Program Guidelines and Rules

Heritage Trees

Sections:

Purpose; Definition
Nomination
Review Process
Protection of Heritage Trees
Recognition of Heritage Trees
Removal of Heritage Tree Designation
Incentives

Purpose and Definition:

1. The purpose is to foster appreciation and provide for voluntary protection of Heritage Trees within the Tigard City limits.

2. A "Heritage Tree" is a tree or stand of trees that is designated of landmark importance due to age, size, species, horticultural quality or historical importance.

3. "City Property" shall mean City property or public right-of-way under City jurisdiction.

Nomination:

1. Any person may nominate a particular tree or group of trees for "Heritage" status. If the proposed Heritage Tree is located on property other than City property, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property, the nomination shall be submitted to the City Forester for evaluation. The City Forester and other City designees shall append his/her recommendation to the nomination.

2. All nominations shall include a photograph of the tree(s) and a narrative explaining why the tree qualifies for Heritage status.

Review Process:

- 1. The Tigard Tree Board shall review all Heritage Tree nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (if different than the applicant), the City Forester and the Chair of any recognized neighborhood association in which the tree is located.
- 2. The City Forester shall prepare a report for the Tree Board analyzing whether the tree complies with the requirements for designation.
- 3. After considering the City Forester's report and any testimony by interested persons, the Tigard Tree Board shall vote on the nomination. The Board may designate the tree as a Heritage Tree if the Board determines that the following criteria are met:

a. The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance, and

b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.

4. If the nomination is approved by the Tree Board, it shall be forwarded, with all elements of

Exhibit 1

the Board's evaluation attached, to the City Council for final evaluation and approval.

5. Following approval of the nomination by the City Council:

a. If the tree is located on private property, the designation shall be complete upon the property owner's execution of a covenant running with the land and duly recorded by the City. The covenant shall describe the subject property, generally describe the location of the heritage tree, and covenant that the tree is protected as a Heritage Tree by the City of Tigard and is therefore subject to special protection. The Heritage Tree shall be listed on the City Heritage Tree Registry.

o. If the tree is located on City Property, the designation shall be complete upon the listing

of the tree on the City Heritage Tree Registry.

Protection of Heritage Trees:

1. A permit shall be required to remove a designated Heritage Tree.

2. If an application to remove a Heritage Tree is sought, the applicant shall demonstrate that the tree is hazardous or the burden imposed on the owner outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner or City:

a. View obstruction,

b. Routine pruning, leaf raking and other maintenance activities, and

c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate

pruning or maintenance.

3. Unless there is a permit to remove a dead or hazardous heritage tree the applicant shall be required to follow the mitigation procedures for the loss of the tree as outlined in the Tigard Municipal Code, Chapter 18.790.

4. Any person who removes a Heritage Tree without first obtaining a permit to do so shall be subject to a fine equal to twice the value of the tree as determined by the City Forester with reference to the current edition of *Guide to Plant Appraisal* and shall be required to mitigate for the loss of the tree.

Recognition of Heritage Trees:

- 1. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner of a designated Heritage Tree, or if the tree is on City property, to the City Forester. The plaque shall be posted at or near the tree and, if feasible, visible from a public right-of-way.
- 2. The City shall maintain a list and map of designated Heritage Trees.

Removal of Heritage Trees Designation:

1. A Heritage Tree shall be removed from designation if it dies.

2. To request permission to remove a tree from Heritage designation, the interested party(ies) shall submit to the City Forester a narrative clearly stating justification for removal. The City Forester shall review the request, append his/her recommendations to the request and submit the request and recommendation to the City Council for a final decision.

3. If the Heritage Tree is on private property, and removal from Heritage designation is approved, the City shall provide a document extinguishing the covenant running with the

property, which may be recorded by the property owner.

4. Once Heritage Tree status is removed, the City shall remove the tree from their list and map,

the tree shall be removed from the Heritage Tree Registry and any plaque associated with the tree shall be returned to the City Forester.

5. Once Heritage designation is removed, the tree shall be treated as any other tree within the City limits for purposes of planning, development, removal or care.

Incentives:

- 1. Incentives include the City:
 - a. Paying for pruning, necessary soil amendments and maintenance of the Heritage Trees.
 - b. Providing a plaque for each tree identifying the species of tree.

AGENDA ITEM#	6
FOR AGENDA OF	October 11, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Hi-Hat Measure 37 Claim	
PREPARED BY: Gary Pagenstecher DEPT HEAD OK CITY MGR OK	_cl
ISSUE BEFORE THE COUNCIL	
Pursuant to Tigard Municipal Code Section 1.20, Council must decide whether to grant the Measure compensate the claimant, waive the affected regulation, or deny the claim.	37 claim and
STAFF RECOMMENDATION	
Due to the specific nature of this application and the uncertainty of the Measure 37 process, staff record the Council seek the guidance of the City Attorney.	nmends that
INFORMATION SUMMARY	
The subject M37 claim is to allow a billboard on the Hi-Hat restaurant property located at 1153 Highway. The Tigard Development Code prohibits billboards and restricts the size of freestandi Council must decide by motion to deny or by ordinance to grant the claim prior to November 1, 20 claimant may seek a judgment in Circuit Court. The Council hearing provides the Claimant and any reasonable opportunity to present evidence and argument.	ng signs. The 005, when the
OTHER ALTERNATIVES CONSIDERED	
NA	
VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY	
NA	
ATTACHMENT LIST	
Attachment 1: Staff report and recommendation. Attachment 2: Claimant's materials and staff correspondence. Attachment 3: Aerial photo of the subject property.	
FISCAL NOTES	

Neither the City nor the State has provided funds to pay Measure 37 claims.

Hearing Date: October 11, 2005

Time: 7:30 PM

STAFF REPORT TO THE **CITY COUNCIL**



FOR THE CITY OF TIGARD, OREGON

180 DAY CLAIM PROCESSING PERIOD = 10/31/2005

SECTION I.

CLAIM SUMMARY

FILE NAME:

CITY CASE NO:

Measure 37 Claim (M37)

HI-HAT, INC. COMPENSATION CLAIM

M372005-00002

CLAIMANT/

Hi-Hat, Inc.

CLAIMANT'S

Roger A. Alfred

OWNER:

11530 SW Pacific Highway

ATTORNEY:

Perkins Coie, LLP

Portland, OR 97223

1120 NW Couch Street

Tenth Floor

Portland, OR 97209-4128

CLAIMANT'S

Chris Carlisle

REPRESENTATIVE:

Media Investment Group, LLC

5100 SW Macadam Avenue, Suite 210

Portland, OR 97239

CLAIM:

The Claimant seeks a waiver of provisions of the Tigard Development Code prohibiting billboards and limiting size of signs on Pacific Highway in the C-G commercial zoning district. The amount claimed as compensation without such

waiver is \$623,290.30.

AFFECTED

REGULATION:

Tigard Development Code Section 18.780.070.M, which prohibits billboards; TDC Section 18.780.130.C containing sign restrictions applicable to the C-G zone which allow property owners to build one free standing sign and which prohibits any freestanding sign larger that 70 square feet per face or a total of 140 square feet

for all sign faces.

ZONING

DESIGNATION:

C-G: Commercial District.

LOCATION:

11530 SW Pacific Highway; WCTM 1S136DA, Tax Lot 00700.

APPLICABLE

CODE CRITERIA:

Municipal Code Chapter 1.20

SECTION II.

STAFF RECOMMENDATION

Due to the specific nature of this application and the uncertainty of the Measure 37 process, staff recommends that the Council seek the guidance of the City Attorney.

SECTION III. BACKGROUND

The subject parcel (TL 700) is located south of Pacific Hwy and west of SW 68th Parkway. It is currently developed with the Hi-Hat Restaurant, one free standing sign, and an associated parking lot. The parking lot is accessed from Pacific Highway and is connected to two adjoining parcels developed with parking lots to the east (TL 600) and west (TL 800).

SECTION III. APPLICABLE CRITERIA AND FINDINGS

Section 1.20.030 states a property owner wishing to make a claim against the City under Measure 37 shall first submit a claim to the City. A claim under Measure 37 must be in writing and include:

A copy of all claim documents submitted by the claimant is attached to this staff report as Attachment 2.

A. Identification of the affected property. Identification may be by street address, subdivision lot number, tax lot number, or any other information that identifies the property.

The claimant identifies the property as being located at 11530 SW Pacific Highway; WCTM 1S136DA, Tax Lot 00700.

B. The name and contact information of the person making the claim, the date the Claimant acquired the property, and, if applicable, the date that a family member of Claimant acquired the property and the names and relationships of family members that are previous owners.

The name and address of the entity making the claim is Hi-Hat, Inc., 11530 SW Pacific Highway, Portland, OR 97223. Hi-Hat's representative is Chris Carlisle, Media Investment Group, LLC, 5100 SW Macadam Avenue, Suite 210, Portland, OR 97239. The claimant's representative states the property was acquired by the claimant on April 3, 1964 and submitted a warranty deed dated April 3, 1964 (Book 511 page 14) as evidence. The claimant's representative submitted a title report dated August 8, 2005, showing Hi-Hat, Inc., as the current owner.

C. A list of all persons with an ownership interest in or a lien on the property.

The title report identifies the claimant as the sole owner.

D. Identification of the regulation that is alleged to restrict the use of the affected property and a statement describing how the restriction affects the value of the property.

In a letter to the City dated August 8, 2005, Roger Alfred of Perkins Coie, the claimant's attorney, identified TDC Section 18.780.070.M which states that "billboards are prohibited", and Section 18.780.130.C which contains sign restrictions applicable to the C-G zone which allow property owners to build only one "free standing sign" on their property and which prohibit any freestanding sign larger that 70 square feet per face or a total of 140 square feet for all sign faces.

The claimant's representative states that "billboards generate income which increases property value."

E. A statement whether the Claimant prefers compensation or a waiver, suspension or modification of the regulation, and a statement describing the extent to which the regulation would need to be waived, suspended or modified to avoid the need for compensation. A description of the proposed use must be provided.

The claimant's representative states that a waiver is preferred. TDC Section 18.780.070.M, which prohibits billboards, would need to be waived to allow the proposed billboard. TDC Section 18.780.130.C, which limits the size of signs in the C-G zone would need to be waived to allow the greater size of the proposed billboard. The claimant's representative has described the proposed billboard as being 14 feet high by 48 feet long, standing 45 feet tall and made of steel. The claimant's representative submitted a set of plans (Obie Construction Co., Inc.) showing a single steel pole with alternate Full Flag, Back to Back, Single-Face, and V-Build designs. An example of this type of construction can be found across Pacific Hwy to the east on the Kentucky Fried Chicken site, which was permitted in the same month the Council adopted the ordinance prohibiting billboards.

F. The amount claimed as compensation and documentation supporting the amount. The documentation shall include a market analysis, an appraisal, or other documentation at least equivalent to a market analysis.

The claimant's representative has provided a written demand for compensation in the amount of \$623,290.30*, which he states was calculated by using the Investment Accumulation Schedule for an investment of \$2,000 per month with a 2.50% escalator over 20 years, a standard method for calculating value in the billboard industry. In addition, the claimant's representative submitted a "Valuation for Lease" prepared by Stan Smith, Senior Managing Director with Capital Financial Group. Mr. Smith states that the present value of a potential lease stream best quantifies the economic value of the rights to such a lease stream. In an example, Mr. Smith calculates that given the base lease rate is \$20,000 annually, with the average annual lease revenue of \$20,545, the gross lease revenue over the 20 year initial term of the lease would be \$510,893. This amount is then discounted by a factor of 11.803% to arrive at the net present value of \$178,813.

*[The August 16, 2005 Staff Report for a Washington County M37claim (37CL0084) to place a billboard on the northwest side of SW Pacific Hwy in the vicinity of SW 124th Place in Tualatin, cited this same value.]

G. The name and contact information of the Claimant's authorized representative or representatives, if applicable.

The claimant's representatives are Chris Carlisle, Media Investment Group, LLC, 5100 SW Macadam Avenue, Suite 210, Portland, OR 97239, (503-804-6494) and Roger Alfred, Perkins Coie, 1120 NW Couch Street, Tenth Floor, Portland, OR 97209, (503-727-2094).

Section 1.20.080 outlines the criteria for making a decision on the compensation claim. In deciding the claim, the Decision Maker may take any of the following actions:

Deny the claim based on any one or more of the following findings:

a. The regulation does not restrict the use of the private real property.

- b. The fair market value of the property is not reduced by the passage or enforcement of the regulation.
- c. The claim was not timely filed.
- d. The Claimant is not the current property owner.
- e. The Claimant or family member of Claimant was not the property owner at the time the regulation was adopted.
- f. The regulation is a historically and commonly recognized nuisance law or a law regulating pornography or nude dancing.
- g. The regulation is required by federal law.
- h. The regulation protects public health and safety.
- i. The City is not the entity responsible for payment. The City is not responsible if the challenged law, rule, ordinance, resolution, goal or other enactment was not enacted or enforced by the City.
- j. The City has not taken final action to enforce or apply the regulation to the property for which compensation is claimed.
- k. The City has not established a fund for payment of claims under Measure 37.
- I. The Claimant is not legally entitled to compensation for a reason other than those listed in subsections a through k. The basis for this finding must be clearly explained.
- 2. Pay compensation, either in the amount requested or in some other amount supported by the evidence. If the City pays compensation, the City shall continue to apply and enforce the regulation. Any compensation shall be paid from funds appropriated for that purpose. The City may require any person receiving compensation to sign a waiver of future claims for compensation under Measure 37 and the City may record that waiver with the County Recorder.
- 3. Waive or not apply the regulation to allow the owner to use the property for a use permitted at the time the Claimant acquired the property.
- 4. Modify the regulation so that it does not give rise to a claim for compensation. Any such modification shall be for the specific property only unless the City follows the procedure for a legislative land use decision.

5. Conditionally waive or suspend the regulation subject to receipt of a defined amount of contributions toward compensation by a specified date from persons opposed to the waiver or suspension, such as persons who believe they would be negatively affected by waiver or suspension, with the waiver or suspension being granted if the defined amount of contributions is not received by the specified date. If the contributions are received, compensation shall be paid within 180 days of the date the claim was filed. The specified date shall allow the City time to process the contributions and pay compensation.

The Decision Maker may take other actions it deems appropriate in individual circumstances, may modify the listed actions, and/or may combine the listed actions, consistent with Measure 37. The Decision Maker may negotiate an acceptable solution with the Claimant or may direct staff to negotiate with the Claimant. In the event that the Decision Maker directs staff to negotiate, the matter shall be set for further action by the Decision Maker no less than 175 days from the date of the notice of claim became complete. The Council shall take final action within 180 days of the claim. The Decision Maker shall take actions 2 through 5 only if it determines the claim is valid.

The Council should decide whether to pay compensation, waive applicable regulations, or deny the claim based on Measure 37, taking into account the code provisions listed above.

A decision by a Decision Maker other than Council shall not be a final decision, but shall be a recommendation to Council.

This report represents only a recommendation to the City Council and is not a final decision of the City.

SECTION IV. CONCLUSION

The Council should decide whether to pay compensation, waive applicable regulations, or deny the claim based on Measure 37, taking into account the code provisions listed above.

PREPARED BY: Gary Pagenstecher

Associate Planner

DATE

September 23, 2005

APPROVED BY

Dick Bewersdorf

Planning Manager

September 23, 2005

DATE

ATTACHMENT 2

RECEIVED PLANNING

AUG 2 5 2005

CITY OF TIGARD

Media Investment Group LLc

5100 SW Macadam Ave Suite 200 Portland, Oregon 97239

August 22, 2005

Gary Pagenstecher Associate Planner City of Tigard 13125 SW Hall Blvd Tigard, OR 97223

Re:

Measure 37 Claim - Hi-Hat

File # M372005-00002

Dear Gary:

The enclosed information should complete your requests. If not, please respond in writing to my Attorney Roger Alfred at Perkins Coie.

Thank you for your attention to this matter.

Very truly yours,

Media Investment Group LLC

Roger Alfred cc:

Stan Smith



Aequitas Capital Management, Inc. 805 SW Broadway, Suite 560 Portland, OR 97205 (503) 419-3500 • (503) 419-3530 fax • www.aequitascapital.com

August 15, 2005

Mr. Stan Smith Capital Financial Group 5100 SW Macadam Ave., Suite 200 Portland, OR 97239

RE:

Valuation for Lease. 11539 SW Barbur Blvd Tigard, Oregon

Dear Mr. Smith:

At your request, we have been giving consideration to quantifying the economic value to the rights of a potential property lease for a permanent easement on a billboard site. Accordingly, we have done some market research and financial analysis related to the present value of a potential lease stream, which in our opinion best quantifies the economic value of the rights to such a lease.

General assumptions are that the standard lease in such a situation is established for a 20 year initial term, with a base rate and annual escalation clause of 2.5% per year. The lease is generally directly with a national billboard company, who are known to be financially secure entities and thereby represent very low credit risk on the lease stream.

There are many comparable transactions in the market that suggest that national build board companies are paying a 7x multiple of the average annual lease revenue, adjusted for the annual escalation allowance (the "average" lease stream adjusted for the escalation over the life of the lease is 27.7% greater than the base lease rate), as a market valuation for obtaining the rights as the lessee on an underlying property lease for a billboard site. Utilizing this approach at the origination of the lease equates to applying a discount rate of 11.803% on the gross 20 year lease stream to arrive at a Net Present Value of the stream. This discount rate is very much in line with market expectations for transaction of this nature and risk.

For example, if the base lease rate was \$20,000 annually, the average annual lease revenue would be \$20,545, and the gross lease revenue over the 20 year initial term of the lease would be \$510,893. The net present value of this lease would be \$178,813 based on: (a) 7x the average annual lease revenue of \$20,545; or, (b) Discounting the gross lease revenue of \$510,893 by an 11.803% discount factor.

I hope this letter provides you the information that you require. If you have any questions, or need any additional information, please don't hesitate to contact me.

Sincerely,

BO

Brian A. Oliver Senior Managing Director



STATUS OF RECORD TITLE REPORT

Ticor W.E.S.T. Office

9755 S.W. Barnes Road, Suite 255 • Portland OR 97225 (503) 219-1160 • FAX: (503) 297-5991

August 21, 2005

Media Investments Groiup LLC. Chris Carlile 5100 SW Macadam Ave #210 Portland OR 97239

Order Number:

852157

Regarding:

(Borrower)

Property Address:

11530 SW Pacific Highway

Portland, OR 97223

County:

Washington .

DATED AS OF:

August 8, 2005, 8:00 am

PROPERTY

We have searched our Tract Indices as to the following described real property:

See Attached Legal Description.

VESTING

HI-HAT, INC., AN OREGON CORPORATION

RECORDED INFORMATION

Said property is subject to the following on record matter(s):

1. Property taxes **UNPAID**

Tax Year:

2004-05

Tax Amount:

\$13,482.57

Unpaid Amount:

\$9,161.23, unpaid plus interest

Tax Acct Number:

R284631, 1S136DA-00700, Code 023.81

2. Property taxes

Lien due but not yet payable.

Tax Year:

2005-06

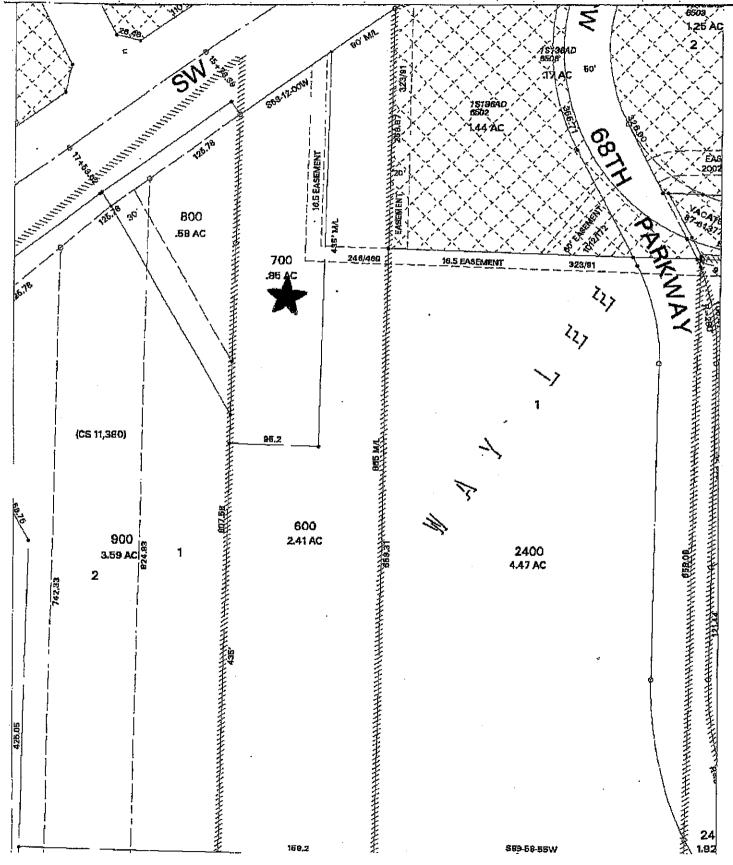
3. Rights of the public in and to that portion lying within streets, roads and highways.

1

III TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.





Beginning at a point on the West line of the Northeast one-quarter of the Southeast one-quarter of Section 36, Township 1 South, Range 1 West, of the Willamette Meridian, in the County of Washington and State of Oregon, which point is 1094.05 feet North of the Southwest corner of the Northeast one-quarter of the Southeast one-quarter of said Section; thence East 95.2 feet; thence North 435 feet, more or less, to the County Road known as the West Side Pacific Highway; thence South 53° 12' West, along said road, to the West line of the East one-half of the East one-half of Section 36, Township 1 South, Range 1 West, of the Willamette Meridian; thence South to the point of beginning.

Easement as disclosed by Deed, including the terms and provisions thereof, 4.

Recorded Date:

December 31, 1959 Book 425, Page 787

Recording Number: For:

Roadway - Said deed does not disclose the location of the

aforementioned roadway.

Line of Credit, including the terms and provisions thereof, given to secure a note,

Amount:

\$165,000.00

Executed By:

Hi-Hat, Inc., an Oregon corporation

Trustee: Beneficiary: Stewart Title of Oregon, Inc. KeyBank National Association

Dated:

January 16, 2003

Recorded Date:

January 23, 2003

Recording Number:

2003010169

Loan Number:

1000009701

THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY. Any use of this report as a basis for transferring, encumbering or foreclosing the real property described will require payment in an amount equivalent to applicable title insurance premium as required by the rating schedule on file with the Oregon Insurance Division.

The liability for TICOR TITLE INSURANCE COMPANY is limited to the addressee and shall not exceed the premium paid hereunder.

TICOR TITLE INSURANCE COMPANY

Tom McColloch Title Officer Tom, Mccolloch@TicorTitle.com



Ticor W.E.S.T. Office

9755 S.W. Barnes Road, Suite 255 • Portland OR 97225 (503) 219-1160 • FAX: (503) 297-5991

August 21, 2005

Ticor Title Insurance Company 9755 S.W. Barnes Road, Suite 255 Portland OR 97225

Order Number:

852157

Regarding:

(Borrower)

Property Address:

11530 SW Pacific Highway

Portland, OR 97223

County:

Washington

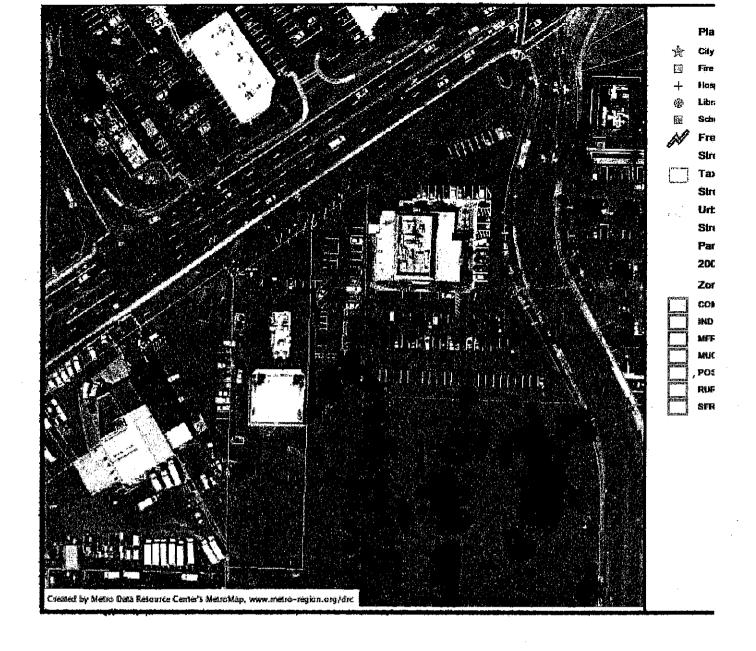
Enclosed please find a Status of Record Title for the above referenced transaction.

We thank you for giving us the opportunity to be of service to you. Please contact me at the phone: number above with any questions you may have regarding this report.

Sincerely,

TICOR TITLE INSURANCE COMPANY

Copies Sent To: Chris Carille Media Investments Grolup LLC. Ticor W.E.S.T. Office Ticor Title Insurance Company



CITY OF TIGARD OREGON

August 10, 2005

Chris Carlile Media Investment Group, LLC 5100 SW Macadam Avenue, Suite 210 Portland, OR 97239

Re: Measure 37 Claim, Hi-Hat Restaurant (File No. M372005-00002)

Dear Mr. Carlile:

Roger Alfred, attorney for the claimant, submitted information on August 8, 2005 in response to the City's June 3, 2005 letter requesting information required to complete your application for a Measure 37 claim. Mr. Alfred clarified the regulation restricting use that the claimant wants the City to waive and indicated that he would be providing an appraisal and that you would be providing a current title report and a location plan for the proposed billboard.

Pursuant to Section 1.20.060, a City Council hearing has been scheduled for September 27, 2005. In a telephone conversation with me on August 8, 2005 Mr. Alfred agreed to submit all information identified in the City's June 3rd letter by August 30, 2005. Any information received after that date will not be considered in staff's review of the claim.

If you have any questions concerning your claim, please call me at 503-718-2434

Sincerely,

Gary Pagenstecher Associate Planner

Roger Alfred, Perkins Coie

P.01/03

Perkins

FACSIMILE COVER SHEET

CONFIDENTIAL AND PRIVILEGED

If there are any problems with this transmission, please call the Perkins Coie Fax Center at (503) 727-2049. 1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: \$03:727-2000
PAX: 503:727-2212

	(503) 727-2094	
Sender:	TELEPHONE:	FACSIMILE: (503)727-2222
DRIGINAL POCCUMENT(S) WILL BE: [] SENT TO	TOO LIBBE 11 SOLUTION	
ORIGINAL DOCUMENT(S) WILL BE: SENT TO Y	YOU HELD IN OUR FILES	
RETURN TO: (NAME) Donna Friberg	(Ext.) <u>2095</u> (Rodm No.) <u>9051</u>	
CLIENT NUMBER.		
CLIENT NUMBER: 57992-0001-000000	·	

RECIPIENT: COMPANY: TELEPHONE: FACSIMILE:

Gary Pagenstecher City of Tigard, Planning Dept. (503) 639-4171 (503) 684-7297

Chris J. Carlile Media Investment Group, LLC (503) 804-6494 (503) 521-9271

RE: Measure 37 Claim.

This Fax contains confidential, privileged information intended only for the intended addressee. Do not read, copy or disseminate it unless you are the intended addressee. If you have received this Fax in error, please email it back to the sender at perkinscole.com and delete it from your system or call us (collect) immediately at 503.727.2000, and mail the original Fax to Perkins Cole LLP, 1120 N.W. Couch Street, Tenth Floor, Portland, OR 97209-4128.



1120 N.W. Couch Street, Tenth Floor Portland, OR 97209-4128 PHONE: 503.727.2000 FAX: 503.727.2222 www.perkinscole.com

Roget A, Alfred
PHONE: 503.727.2094

FAX: 503.346,2094

EMAIL: raifted@perkinscoic.com

August 8, 2005

VIA FAX

Gary Pagenstecher Associate Planner City of Tigard 13125 SW Hall Blvd. Tigard, OR 97223

Re: Measure 37 Claim – Hi-Hat Restaurant File No. M372005-00002

Dear Gary:

This letter provides responses to certain questions raised in your correspondence to Chris Carlile dated June 3, 2005.

Regarding the regulations restricting the proposed use, the relevant portions of the Tigard Development Code that prohibit the proposed use are set forth at TDC Section 18.780.070,M, which states "billboards are prohibited." Also, TDC Section 18.780.130.C contains sign restrictions applicable to the C-G zone, which allow property owners to build only one "freestanding sign" on their property, and which prohibit any freestanding sign larger than 70 square feet per face or a total of 140 square feet for all sign faces. All of these provisions would prohibit the proposed sign, which would be 14 x 48 feet in size.

Regarding the additional issues identified in your correspondence, Mr. Carlile will obtain and provide you with a current title report for the property. Also, as contemplated by TMC Section 1.20.030 F, we are in the process of obtaining an appraisal or similar market analysis regarding the monetary impact on the property caused by the city's prohibition on billboards.

August 8, 2005 Page 2

Please contact me if you have any questions about this letter. Thank you for your attention to this matter.

Very truly yours,

Roger A. Alfred

cc: Media Investment Group, Inc.

[57992-0001/PA052190.012]

08/08/05

June 3, 2005

Chris Carlile Media Investment Group, LLC 5100 SW Macadam Avenue, Suite 210 Portland, OR 97239

Re: Measure 37 Claim, Hi-Hat Restaurant (File No. M372005-00002)

Dear Mr. Carlile:

I am in receipt of your May 19, 2005 letter response to our request for more information on your Measure 37 claim for the Hi-Hat property located at 11530 SW Pacific Hwy in Tigard, Oregon.

OREGON

Claimant Information

In your letter you stated that you intend to submit a title report to the City that clearly identifies the parties and dates on the warranty deed of the subject property. We still await that title report.

Regulation Restricting Use

You identified Sections 16.36.010 and 16.40.090 of the 1972 Tigard Municipal Code (TMC) as regulations that restrict the use of the subject property by not allowing billboards. Please be aware that the 1972 TMC has been substantially revised over the years and is no longer in effect. A waiver of the code provisions you have cited would not affect regulations of billboards in effect under the current TMC. The relevant portions of the current TMC, which may restrict the use of the subject property, should be cited in your claim.

Claim Preference

You have identified the proposed use to be a billboard 14 x 48 feet by 45 feet in height, made of steel and constructed similarly to plans you submitted for Obie Construction Co., Inc. You stated that placement of the billboard on the subject parcel would be as indicated on an attached aerial photograph. However, the City did not receive the aerial photograph with your materials. Please submit the aerial photograph.

Amount of Compensation

Measure 37 allows landowners to make written demand for just compensation when a regulation reduces the fair market value of a property. In your letter, you identified a claim for monetary compensation in the amount of \$623,290.30 (\$24,000/year x 20 years with a 2.5% escalator). However, you have not provided documentation supporting that amount in the form of a market analysis, appraisal, or other documentation at least equivalent to a market analysis.

You have shown a gross retail amount for a billboard contract. However, this amount is not discounted to determine a present value. In addition, to demonstrate that your claim value is reasonable, your market analysis should, at minimum, qualify the location by showing comparable rents for similar placements, determine compatibility with the existing restaurant use, and factor in the cost of construction and maintenance. Please provide a market analysis or appraisal that demonstrates a reduction in the fair market value of the subject property.

Sincerely,

Gary Pagenstecher Associate Planner

MEDIA INVESTMENT GROUP, LLC 5100 SW Macadam Avenue, Suite 210 Portland, Oregon 97239 (503) 804-6494

NOISING DIVIDURE CLUB OF TIGHTEE

STANZ OF AVE

GEMEORA

May 19, 2005

Gary Pagenstecher City of Tigard 13125 SW Hall Blvd Tigard, Oregon 97223

Re:

Measure 37 Claim

Hi-Hat Restaurant (Calvin Louis)

Dear Gary:

Thank you for your correspondence dated May 12, 2005. In that correspondence, you requested additional information in order to process the Measure 37 claim filed by me on behalf of Hi-Hat Restaurant. I will address your concerns as they were outlined in your letter.

Claimant Information

The Deed that was provided to you was obtained from the Washington County Recorder's Office. I understand that it is difficult to read; however, this is the best copy available. The April 15, 1964 date is legible on the bottom of the document and the owner has confirmed that that was the date of transfer. To further clarify this issue, I have requested a title report and will submit a copy to you upon receipt.

Regulation Restricting Use

The relevant sections of provision 16.36 are sections 16.36.010 and 16.36.040.

Claim Preference

The proposed use would be for a 14x48 foot billboard. The height would be 45 feet and it will be constructed by Obie Construction, who is a licensed Oregon contractor. Obie builds the signs out of steel. I have attached a set of plans for your reference which are similar to what we will be building. The sign will be placed on the property in the approximate location as indicated on the attached aerial photo.

Gary Pagenstecher May 19, 2005 Page 2

Amount of Compensation

Please accept this section as written demand for monetary compensation in the amount of \$623,290.30. This figure was calculated by using the Investment Accumulation Schedule for an investment of \$2,000 per month with a 2.500% escalator over 20 years. This method is the standard for calculating value in the billboard industry. To further clarify the documentation I am submitting along with this correspondence, I will attempt to further explain the process. I have attached a standard Billboard Lease, which indicates that a billboard company would pay the sum of \$24,000 annually (\$2,000 monthly) to lease the portion of property where the billboard would be placed. The term of the Lease for the purposes of this calculation was 20 years, although many leases are 30 years and contain provisions for extension beyond the 30 year mark. A 2.500% escalator is contained in the lease, which controls the increases in the lease payment over the term of the lease. This percentage is also standard in the industry. Therefore, \$24,000 x 20 years with a 2.500% escalator equals the claim amount of \$623,290.30.

I understand that the billboard industry is unique and complicated. Therefore, if you have further questions about how compensation was determined or would like to further discuss this claim, I would be more than happy to meet with you in person in an attempt to expeditiously resolve any remaining issues. Please feel free to contact me at (503) 804-6494 if you would like to set up a time for a meeting.

Thank you.

// DEDIA/INVESTMENT GROUP, LLC

Chris Carlile

Sincefely,

May 12, 2005

Chris Carlile Media Investment Group, LLC 5100 SW Macadam Avenue, Suite 210 Portland, OR 97239

Re: Measure 37 Claim, Hi-Hat Restaurant (Calvin Louis)

Dear Mr. Carlile:

As we discussed in our telephone conversation this morning, I have reviewed your application for a Measure 37 Compensation Claim (M372005-00002) and have identified additional information needed to process the claim:

OREGON

Claimant Information

To establish ownership and date of acquisition, you provided a copy of a warranty deed. However, the parties identified on the deed are not legible. Please submit a clean copy of the deed clearly identifying the relevant names and dates.

Regulation Restricting Use

You identify Sections 16.36.(?) and 16.40.090 of the 1972 Tigard Municipal Code as regulations that restrict the use of the subject property by not allowing billboards. Please identify the relevant subsection provision of 16.36, that applies to the subject property.

Claim Preference

You have stated a preference for a waiver of the cited regulations in their entirety over compensation. You have identified the proposed use as a billboard 14x 48. Please provide a description of the proposed use that includes its size and height in feet, materials, and placement on the subject parcel.

Amount of Compensation

You have requested "that a building permit be issued for the construction of a 14 x 48 billboard in lieu of monetary compensation." However, you have not identified an amount for monetary compensation. Measure 37 allows landowners to make written demand for just compensation when a regulation reduces the fair market value of a property. Under subsection (8) of the measure, the city is given the discretion to modify, remove, or not apply the land use regulation, in lieu of payment. Therefore, please submit written demand for just compensation and provide documentation supporting that amount (e.g., a market analysis, appraisal, or other documentation at least equivalent to a market analysis).

Please call me if you have any questions.

Sincerely,

Gary Pagenstecher Associate Planner

cc. Case File M372005-00002

MEDIA INVESTMENT GROUP, LLC 5100 SW Macadam Avenue, Suite 210 Portland, Oregon 97239 (503) 804-6494

May 4, 2005

City of Tigard 13125 SW Hall Blvd Tigard, Oregon 97223

Re:

Measure 37 Claim

Hi-Hat Restaurant

Dear City of Tigard:

Enclosed please find a notebook containing a Measure 37 Compensation Claim Form, as well as supporting documentation.

Also enclosed is a check in the amount of \$1000 for the deposit required by the City of Tigard for Measure 37 claims.

Please contact me if you have any questions or need additional information.

Thank you.

JEDIA INVESTMENT GROUP, LLC

Enclosures



PROCEDURE FOR BALLOT MEASURE 37 COMPENSATION CLAIM

13125 SW Hall Blvd., Tigard, OR 97223 503-639-4171 FAX: 503-684-7297

The claim must be in writing and include the information listed below. The claim shall not be considered filed until all of the requirements of the procedure are met.

FOR STAFF USE ONLY	
Case No.: M372005-00002 Date: 51405 2 4:59 pm Date Determined (Deposit: \$1,000 (Deposit to be refunded if claim is determined to be valid. If claim is der reimburse the City for the costs the City incurs in processing the claim. If reimbursement exceasement within 30 days of a demand by the City for full payment. If costs are less than the deposit of the costs are less than t	Complete:
MONOT ATTECTED PROPERTY	
Property Street Address/Location(s): 11530 SW Pacific Oregon 97223 Tax Map & Tax Lot #(s): 1	- Huy, Portland
Subdivision Lot #(s):	
Property Owners/Claimants/Deed Holders*: Hi-Hat Inc. Address: 1530 SW Pacific Hwy City/State: Por Hand Oregon 972.73 (Attach list if more than one) Date Claimant Acquired Property: 43/64 Date Family Member of Claimant Acquired Property (if applicable): Mames and Relationships of Family Members that are Previous Owners (if applicable).	Phone (503) 240- 4055 Zip: 97223 Oplicable):
(Attach list if additional space is needed)	
Lien/Security Interest Holders of the affected property: \(\lambda_{\text{EV}} \overline{\rho}\)	
Address:	Phone:
Attach list if more than one)	Zip:

When the owner and the applicant are different people, all owners of the affected property must sign this application in the space provided on the back of this form. If the affected property is owned by two or more persons and not all owners seek compensation, all owners who do not seek compensation shall sign a waiver of the right to

REGULATION RESTRICTING USE						
Identify the regulation that is alleged to restrict use of affects affects the value of the property. (Attach additional materials	ed property. Provide a statement describing how the restriction as necessary)					
of 110 Un 200						
prohibit 14x48 billboards. Billboards opnerate income by						
increases property value <	backers generate income which					
CLAIM PREFERENCE Section 5 attaches						
Provide a statement of whether claimant prefers compensation	on or a waiver, suspension, or modification of the regulation					
claimant requests	2 WCLIVET OF the					
regulations listed al	ove brie					
Include a state of the state of						
the need for compensation. A description of the proposed us	tion would need to be waived, suspended, or modified to avoid must be provided. (Attach additional materials as necessary)					
See attached It	Must be provided. (Attach additional materials as necessary)					
·						
AMOUNT OF COMPENSATION						
The amount claimed as compensation: See at Provide documentation supporting the amount. Said documents	umentation shall include a market analysis, appraisal, or					
	is.					
Claimants' Authorized Representative(s) if applicable.						
Clark of title	·					
Shris Harite See attached #58						
SIGNATURES of each owner of the subject property.						
DATED this 14h day of Aphil	, 20 <u>_0</u> S					
	(security					
Owner's Signature	Owner's Signature					
Owner's Signature	Owner's Signature					

Washington (OR)

OWNERSHIP INFORMATION

Reference Parcel

: 1S136DA 00700

Parcel Number

: R0284631

Owner

: Hi Hat Inc

CoOwner

Site Address Mail Address

: 11530 SW Pacific Hwy Portland 97223 : 11530 SW Barbur Blvd Portland Or 97219

Telephone Owner

Telephone Tenant

TRSQ :01S

-01W

-36

-SE

-NE

SALES AND LOAN INFORMATION

Transferred Document #

Sale Price Deed Type % Owned

Loan Amount

Lender Loan Type Interest Rate Vesting Type

ASSESSMENT AND TAX INFORMATION

Mkt Land

: \$417,940

Exempt Amount

Measure 50 Assd Total:\$832,170

Mkt Structure

: \$611,270

Exempt Type

: Tigard

Other Mkt Total

: \$1,029,210

School District Levy Code

: 02381

% Improved

: 59

04-05 Taxes

: \$13,482.57

PROPERTY DESCRIPTION

Map Grid Census

: 655 G2

: Tract: 307.00

Class Code Block: 1

NbrhdCd Sub/Plat

: ZPHY

MillRate

: 16.4436

Land Use Legal

: 2012 Com, Improved : ACRES .85

Zoning

PROPERTY CHARACTERISTICS

Bedrooms Bathrooms

Heat Method Pool Appliances Dishwasher

Hood Fan Deck Garage Type Garage SF

Lot Acres

Lot SqFt BsmFin SF

BsmUnfinSF BsmLowSF Bldg SoFt 1stFlrSqFt

UpperFISF Porch SqFt Attic SqFt Deck SqFt

:.85 Year Built : 37,026 EffYearBlt

Floor Cover: Foundation: Roof Shape: Roof Matl InteriorMat: Paving Matl: Const Type: Ext Finish

The Information Provided Is Deemed Reliable But Is Not Guaranteed.

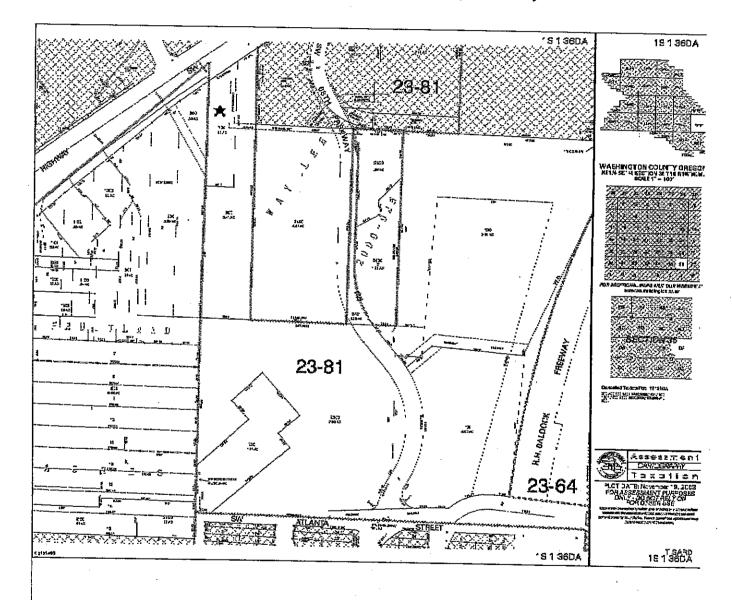
-=	ORM -VARRANTY DEED. 5036/2
_	KNOW ALL MEN BY THESE PRESENTS, That
 }	o consideration of Tina Divasion - Dollars,
	o. thenpaid by . CTI allills and Fluicit it. I was husband and arise,
	to hereby grant, bargain, sell and convey unto said
••	heirs and assigns, all the following real property, with the tenements, ereditaments and appurtenances, situated in the County of confident and State
0	d Oregan, bounded and described as follows, to-wit:
•	Boginning at a point on the lest line of the Lorthenst quarter of the fourthenst quarter of leading by Tomashin 1 Journal of the Less of the Millarette heridian, which joint is 107, 7 foot herid of the Journal common of the contents quarter of the doubless quarter of said dection; thence last 95.1 foot; thence herth 135 feet, more or less, to the County Road known as the lest like Faction Highway, thence your 550 ly lest along and road to the lest line of the last one-half of section 30, Tomashin 1 double, having 1 less of the Millarette Moritian; thence South to the point of be inclined at the last one-half of section 30, Tomashin 1 double, having 1 less of the Millarette Moritian; thence South to the point of be incline, situate in the January of Assington, atoms of Gregor.
	Surface to and together with an easement for remarks.
	The state of the s
	Ta Here and to Hold the above described and granted premises unto the said
-	MALL STEER
-	analy beirs and assigns forever.
	And 11.11 (2007, 17214, 2010) 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
	And
1	and that will and our heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcal thereof, against the lawful claims and damageds, of all persons whomsoever, Witness our hands and seel a this 2 day of 1 and 1 production of the Presence o

TICOR TITLE INSURANCE



North

This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey.

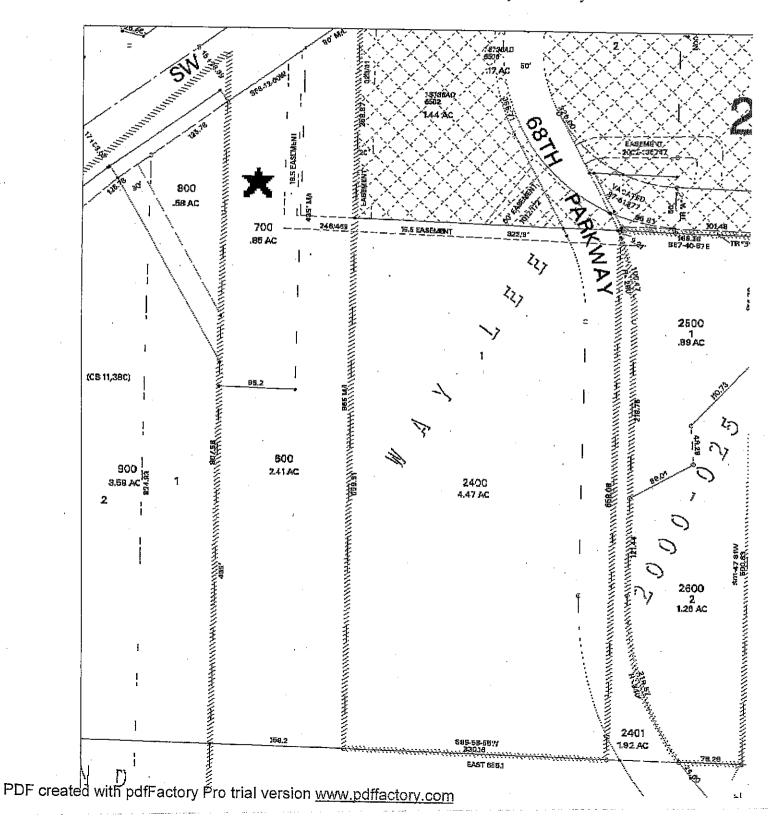


TICOR TITLE INSURANCE



North

This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey.



CODE ALLOWING BILLBOARDS

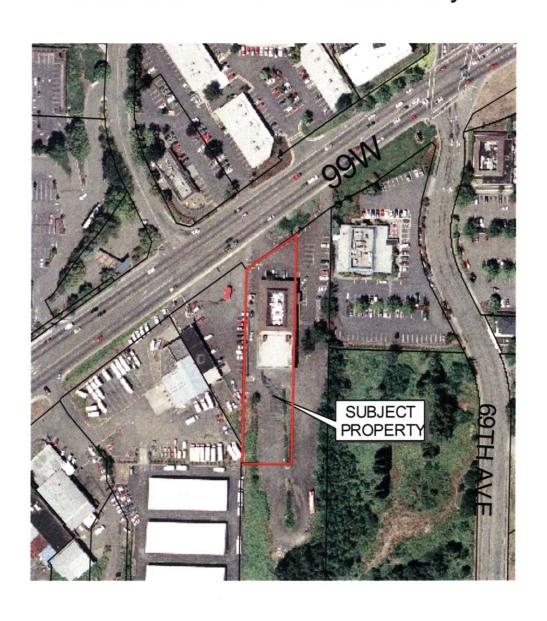
When owner purchased the property in 1964, there were no regulations limiting the construction of 14x48 billboards. The 1963 Charter of the City of Tigard was the controlling regulatory document. The 1963 Charter does not restrict the construction of 14x48 billboards in any way.

REGULATIONS RESTRICTING USE

The regulations that restricted owner's ability to construct a 14x48 billboard on its property are sections 16.36 and 16.40.090 of the 1972 Tigard Municipal Code

Measure 37 Claim Hi-Hat, Inc.

Request to waive billboard prohibition (TDC 18.780.070.M) to allow a 14' x 48' sign located at 11530 SW Pacific Hwy



AGENDA ITEM#	7
FOR AGENDA OF	Oct. 11, 2005

CITY OF TIGARD, OREGON LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Contract for Design and Implementation Services for the Water System Telemetry
PREPARED BY: Brian Rager DEPT HEAD OK DEPT HEAD OK CITY MGR OK
PREPARED BY: Brian Rager DEPT HEAD OK PIC CITY MGR OK LA
ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD
Should the Local Contract Review Board (LCRB) authorize the City Manager to execute a contract for the upgrade to the City's telemetry system?
STAFF RECOMMENDATION
Staff recommends the LCRB authorize the execution of a contract with Portland Engineering, Inc., to perform the design and implementation tasks for the telemetry upgrade.
INFORMATION SUMMARY
The City's water system is controlled by a supervisory control and data acquisition (SCADA), or telemetry, system. SCADA enables City Staff to monitor and control the water system remotely. The existing system is out of date and the hardware is reaching the end of its useful life. The Public Works Department has made repairs to the existing system in recent years due to certain elements of the system failing and/or wearing out.
In order to upgrade the system, the City must contract with professionals that can design the new system, implement the new system alongside the old system and successfully transition our operation over to the new system. Tigard has the ability to take advantage of a competitive bidding process conducted by the Joint Water Commission (JWC) for the same type of upgrade to the JWC telemetry system. Tigard's contracting rules allow the City to contract with the same firm hired by another agency as long as the City is asking for the same services. The JWC selected Portland Engineering, Inc. (PEI) as their design/implementation firm. PEI has performed superbly under the JWC contract and Staff recommends the City select PEI for their telemetry upgrade. The attached memorandum provides additional information about this proposal.
PEI has reviewed the City's existing telemetry system and has provided a complete scope of work for the design and implementation of a new system. The contract amount for this work will be \$324,504.00. Staff recommends the LCRB authorize the execution of a contract with PEI in the amount of \$324,504.00.
OTHER ALTERNATIVES CONSIDERED
n/a
VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

This action supports Urban & Public Services, Water and Storm Water Goal #1.

ATTACHMENT LIST

1. Staff memorandum, dated Sept. 22, 2005.

FISCAL NOTES

The budget estimate for the telemetry upgrade project was \$340,000. There was \$262,500 budgeted in the FY 05/06 Water Fund budget. In addition, a budget amendment for this project, in the amount of \$77,500, was approved by the City Council on September 13, 2005 to bring the total budgeted amount up to \$340,000. Therefore, there is more than adequate funding to cover the costs of this contract.

MEMORANDUM



TO:

Local Contract Review Board

FROM:

Brian Rager, Assistant Public Works Director

RE:

Telemetry Upgrade

DATE:

September 22, 2005

Background

The City's water system is controlled by a telemetry, or SCADA system. SCADA (supervisory control and data acquisition) is often used to help monitor and control public water systems. SCADA allows City Staff to monitor and operate the water system remotely. Without SCADA, the City would need to employ at least two additional full-time employees so that manual monitoring of the system could be achieved 24 hours per day, seven days per week.

SCADA is the communications platform that monitors system performance, as well as such things as security, fire alarms, remote video, water quality, etc. Our current system monitors facilities like reservoirs, pump stations, pressure reducing valves (PRV's), and wells. The system will provide information such as reservoir levels, flow rates, and pressure readings. The system can be programmed to send alarms to the master control station to alert operators that there is a problem. Alarms enable our operators to respond to a situation before a problem escalates to an emergency. Our recently completed vulnerability assessment identified our SCADA system as one of our most important assets, and that the City should prioritize periodic upgrades of the equipment and security protocols.

Tigard's SCADA system is out of date and needs to be replaced. The old software is no longer supported by the vendor and many of the remote terminal units (RTU's) have had to be replaced as they are reaching the end of their useful life. Our operators have had issues with the control system crashing, which leaves our staff without the means to monitor the system except by manual reading. As mentioned before, RTU's are wearing out and must be replaced. However, the equipment, due to its age, is getting much more difficult to replace as there is newer technology in the industry.

The City will need to contract with a professional telemetry system designer and integrator to design the new system and install the improvements. To date, the City has completed an assessment of our current system to determine the necessary upgrades and equipment needs. A scope of work has been produced which could be used in a competitive bidding process for the design and integration stage. Staff's goal is to work

Telemetry Upgrade Page 1 with a reliable, local firm that has substantial knowledge of telemetry and has experience with our counterparts in other cities.

Procurement Rules

Tigard's public contracting rule for work such as this would direct Staff to solicit formal bids/proposals from qualified telemetry designers and integrators. A formal solicitation document would need to be developed and advertised to the public. Under this process Staff would conduct an evaluation of the responder's bid/proposals in order to make a qualified recommendation to the Local Contract Review Board.

However, one provision of the public contracting rules provides that if another public agency has conducted a competitive solicitation process that is both recent and for the same good or service, the City may also purchase that same good or service from the awarded contractor. Specifically, Section 10.085 of the City's public contracting rules, states:

- **"A.** The City may purchase any good or service without a formal competitive process if the good or service is purchased from a bidder that has been awarded a contract for the same good or service, whether by a requirements contract or by individual contract by another public agency through its public contract purchasing procedures if:
 - 1. The original contract was awarded by a competitive bid or proposal process or pursuant to an exemption equivalent to an exemption provided by these rules.
 - 2. The contract allows other public agency usage of the contract. A contract that does not prohibit other public agency usage of the contract shall be deemed to allow other public agency use, unless the agency that awarded the contract objects to the use.
 - 3. The purchase is on the same terms, or terms which are no less favorable to the City in all material respects, as the contract awarded by the public agency.
- **B.** A purchase under the Oregon Cooperative Purchasing Program or any similar federal or regional program, including the Electronic Government Act of 2002 (10 USC 381) shall be considered an exempt purchase under this exemption."

The Joint Water Commission (JWC) conducted a competitive solicitation process for the procurement of a telemetry designer and integrator, in September 2004. JWC partners, including the Tualatin Valley Water District and the Cities of Hillsboro, Forest Grove, Beaverton and Tigard, participated in the solicitation process, which included review of the RFP, review of proposals, interviewing candidate firms and making a recommendation for selection. Many partners, including Tigard, anticipated their own telemetry upgrade needs, and worked together to generate General Guideline No. 24 of the RFP, which reads as follows:

"USE BY OTHER PUBLIC AGENCY. By submitting a proposal, the Contractor agrees to allow other public agencies to participate in the proposal. The Contractor specifically agrees to extend identical pricing and services under the

same terms and conditions for the products or services being procured by the City under the RFP to other Oregon public agencies. Each agency wishing to utilize the City's RFP and the successful proposal shall execute its own contract with the Contractor, binding only on that separate agency and the Contractor."

This is very important to the City because there is a need to coordinate our telemetry efforts with that of our JWC partners and other neighboring cities. In addition, General Guideline No. 24 allows the other partners to "piggyback" onto the procurement efforts expended by the JWC. This will save the partners time and money.

The successful designer/integrator for the JWC contract was Portland Engineering, Inc. (PEI). PEI has now been under contract with the JWC for several months and is nearing completion of the integration phase of the work. The City of Hillsboro, the managing partner of the JWC, has given very positive reports regarding PEI's knowledge, expertise and overall job performance to the other JWC partners throughout the process. PEI also has significant knowledge of the Tigard telemetry system, as they have provided technical support to Tigard in the past.

Proposed Solution For Tigard

Based upon the provision of Section 10.085 of the City's public contracting rules, the provision made within the RFP for the JWC telemetry upgrade project, and the fact that PEI has performed very well for the JWC, Staff recommends the City enter into a contract with PEI for the City's telemetry upgrade project. PEI has proven their competency and dependability to the City and to other jurisdictions and Staff believes that because of PEI's knowledge of the Tigard SCADA system, their costs will be lower than any other potential contractor.